



The Land Acquisition Act, 1894

Act 1 of 1894

Keyword(s):

Land, Person Interested, Collector, Court, Company, Public Purpose

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The Land Acquisition Act, 1894
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Act No. I of 1894¹
(The Land Acquisition Act, 1894.)²

		[Act IX of 1910.
			Act XVII of 1919.
			Act XIX of 1921.
			Act XXXVIII of 1923.
			Act XVI of 1933.
			Act XXXI of 1962.
			Act LXVIII of 1984.
			Ben. Act V of 1911.
			Ben. Act II of 1934.
AMENDED		West Ben. Act VII of 1948.
			West Ben. Act XXXIII of 1951.
			West Ben. Act XIV of 1956.
			West Ben. Act XXX of 1963.
			West Ben. Act XXIV of 1964.
			West Ben. Act XIII of 1967.
			West Ben. Act IX of 1975.
			West Ben. Act XXXVI of 1986.
			West Ben. Act XXV of 1993.
REPEALED IN PART	[Act LVI of 1974.
			Act XIX of 1988.
REPEALED IN PART AND AMENDED	[Act IV of 1914.
			Act XXXIII of 1920.
			Act X of 1924.
			Act I of 1938.
ADAPTED	[(a) The Government of India (Adaptation of Indian Laws) Order, 1937.
			(b) The Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
			(c) The Adaptation of Laws Order, 1950.
			(d) The Adaptation of Law (No.2) Order, 1956.

[2nd February, 1894.]

An Act 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.

1. (1) This Act may be called the Land Acquisition Act, 1894 ;

Short title, extent and commencement.

¹For Statement of Objects and Reasons, see the *Gazette of India*, 1892, Pt. V, page 32; for Report of the Select Committee, see *ibid*, 1894, Pt. V, page 23 ; and for Proceedings in Council, see *ibid*, 1892, Pt. VI, page 25, and *ibid*, 1894, pages 19, 24 to 42.

This Act has been declared to be in force in—

- (1) Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), s. 3 ;
- (2) Khondmals District by the Khondmals Laws Regulation, 1936 (IV of 1936), s. 3 and Sch. ; and
- (3) Angul District by the Angul Laws Regulation, 1936 (V of 1936), s. 3 and Sch.

The Act has also been declared by notification under the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in (1) the Districts of Hazaribagh, Lohardaga (now called the Ranchi District, see the *Calcutta Gazette*, of 1899, Pt. I, page 44) and Manbhum, and in Pargana Dhalbhum and the Kolhan in the District of Singhbhum—see the *Gazette of India*, 1894, Pt. I, page 400 ; and (2) the District of Palamau, see the *Gazette of India*, 1894, Pt. I, page 639.

²The provisions of section 557 of the Calcutta Municipal Act, 1899 (Ben. Act III of 1899), section 475 of the Calcutta Municipal Act, 1923 (Ben. Act III of 1923) and section 524 of the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), which have bearing on this Act, may also be seen.

(Part I.—Preliminary.—Sections 2, 3.)

(2) It extends to the whole of India except ¹[the territories which, immediately before the 1st November, 1956, were comprised in Part B States] ; and

(3) It shall come into force on the first day of March, 1894.

²2. [Repeal.]—Repealed partly by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Sch. II, and partly by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

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

Defi-
nitions.

(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 ;

3* * *

(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 ; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land ⁴[or cultivates the land or any portion of it as a *bargadar*] ;

⁵Explanation.—A *bargadar* is a person who under the system generally known as *adhi*, *barga* or *bhag* cultivates the land of another person on condition of delivering a share of the produce of such land to that person ;

(c) the expression "Collector" means the Collector of a district, and includes a Deputy Commissioner and any officer especially appointed by the ⁶[appropriate Government] to perform the functions of a Collector under this Act ;

7* * *

¹The words "all the Provinces of India" were first substituted for the words "the whole of British India" by para. 3(2) of the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948. Thereafter the words "the whole of India except Part B States" were substituted for the words "all the Provinces of India" by para. 4(1) of the Adaptation of Laws Order, 1950. Then the words "the territories which, immediately before the 1st November, 1956, were comprised in Part B States" were substituted for the words "Part B States" by para. 3 and the Schedule of the Adaptations of Laws (No. 2) Order, 1956. Thereafter the words "the State of Jammu and Kashmir" were substituted for the words, figures and letters within square brackets by s.2 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Finally this substitution was not in force as s.2, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

²So much of section 2, as had not been repealed, was repealed by s. 3 of, and the Second Schedule to, the West Bengal Repealing and Amending Act, 1948 (West Ben. Act VII of 1948).

³Clause (aa) was inserted by s. 3(a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this insertion was not in force as s. 3(a), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁴These words were added with retrospective effect by s. 3(i) of the Land Acquisition (West Bengal Amendment) Act, 1963 (West Ben. Act XXX of 1963).

⁵This Explanation was added with retrospective effect by s. 3(ii), *ibid*.

⁶The words "Provincial Government" were first substituted for the words "Local Government" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the words "appropriate Government" were substituted for the words "Provincial Government" by para. 3 and the First Schedule of the Adaptation of Laws Order, 1950.

⁷Clause (cc) was inserted by s. 3(b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this insertion was not in force as s. 3(b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

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(Part I.—Preliminary.—Section 3.)

¹(d) the expression "Court" means a principal Civil Court of original jurisdiction, and includes the Court of any Additional Judge, Subordinate Judge or *Munsif* whom the ²[State Government] may appoint, by name or by virtue of his office, to perform, concurrently with any such principal Civil Court, all or any of the functions of the Court under this Act within any specified local limits and, in the case of a *Munsif*, up to the limits of the pecuniary jurisdiction with which he is vested under section 19 of the Bengal, Agra and Assam Civil Courts Act, 1887 ;

XII of 1887.

³(e) the expression "Company" means a Company registered under the ⁴Indian Companies Act, 1882 or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament ⁵[of the United Kingdom] or ⁶[by an Indian Law], or by Royal Charter or Letters Patent ⁷[and includes a society registered under the Societies Registration Act, 1860, and a registered society within the meaning of the Co-operative Societies Act, 1912],

VI of 1882.

XXI of 1860.

II of 1912.

8* * * *
9* * * *

¹Substituted for the original clause (d) by s. 3 of the Land Acquisition (Bengal Amendment) Act, 1934 (Ben. Act II of 1934).

The original clause is as follows, namely :—

(d) the expression "Court" means a principal Civil Court of original jurisdiction, unless the appropriate 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 ;

²The words "Provincial Government" were originally substituted for the words "Local Government" by paragraph 4(J) of the Government of India (Adaptation of Indian Laws) Order, 1937 and thereafter the word "State" was substituted for the word "Provincial" by paragraph 4(J) of the Adaptation of Laws Order, 1950.

³Clause (e) was substituted for the original by s. 3 (c) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s. 3 (c), *ibid* was repealed by s. 2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁴See now the Indian Companies Act, 1956 (I of 1956).

⁵Inserted by para. 3 and the First Schedule of the Adaptation of Laws Order, 1950.

⁶Substituted for the words "of the Governor-General in Council" by para. 3 and the First Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁷Inserted by s. 2 of the Land Acquisition (Amendment) Act, 1919 (XVII of 1919).

⁸The words "or any other law relating to Co-operative Societies for the time being in force in any State." were inserted by s. 2 of the Land Acquisition (Amendment) Act, 1962 (Act XXXI of 1962). Later s. 2, *ibid* was repealed by s.2 of the Repealing and Amending Act, 1974 (Act LVI of 1974).

⁹For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), after clause (e) the following shall be deemed to be inserted, namely :—

"(e1) the expression 'local authority' includes the Board of Trustees constituted under the Calcutta Improvement Act, 1911."

Vide section 71 of, and paragraph 1 of the Schedule to, that Act.

⁹For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), after clause (e) the following clause shall be deemed to be inserted, namely :—

"(e1) the expression 'local authority' includes the Board of Trustees constituted under the Howrah Improvement Act, 1956;"

Vide section 70 of, and paragraph 1 of the Schedule to, that Act.

[Act I

(Part I.—Preliminary.—Section 3.)

- ¹[(*ee*) the expression "appropriate Government" means, in relation to acquisition of land for the purposes of the Union, the Central Government, and, in relation to acquisition of land for any other purposes, the State Government;]
- ²(*f*) the expression "public purpose" includes the provision of village-sites in districts in which the ³[appropriate 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 ⁴[Chapter XXXI of the ⁵Code 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

XIV of
1882.

¹Inserted by para. 3 and the First Schedule of the Adaptation of Laws Order, 1950.

²Clause (*f*) was substituted for the original by s. 3(*d*) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this substitution was not in force as s. 3 (*d*), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

³See foot-note 6 on page 428, *ante*.

⁴The words, figures and letters "Order XXXII of the First Schedule to the Code of Civil Procedure, 1908" were substituted for the words and letters within square brackets by s. 3(*e*) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this substitution was not in force as s. 3(*e*), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁵See now the Code of Civil Procedure, 1908 (Act V of 1908), Sch. I, Order XXXII.

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(Part II.—Acquisition.—Section 4.)

- (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.

PART II

ACQUISITION.

Preliminary Investigation.

14. (1) Whenever it appears to the ²[appropriate Government] that land in any locality ³[is needed or] is likely to be needed for any public purpose ⁴* * *, a notification to that effect shall be published in the *Official Gazette* ⁵* * *, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality ⁶* * *.

- (2) Thereupon it shall be lawful for any officer, either generally or specially authorised 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.

Publication of preliminary notification, and powers of officers thereupon.

¹As to the amendments with which this section should be read when land is required for the purposes of a Company, see s. 38(2), *infra*. A protected monument may be acquired under this Act as if its preservation were a "public purpose" within the meaning of the Act, see s. 10 of the Ancient Monuments Preservation Act, 1904 (VII of 1904).

²See foot-note 6 on page 428, *ante*.

³Inserted by s. 2 of the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923).

⁴The words "or for a Company" were inserted by s. 4(a) of the Land Acquisition (Amendment) Act, 1984 (Act XLVIII of 1984). Later this insertion was not in force as s. 4(a), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁵The words "and in two daily newspapers circulating in that locality of which at least one be in the regional language" were inserted by s. 4(b) of the Land Acquisition (Amendment) Act, 1984 (Act XLVIII of 1984). Later this insertion was not in force as s.4 (b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁶The brackets and words "(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification)" were inserted by s.4 (c) of the Land Acquisition (Amendment) Act, 1984 (Act XLVIII of 1984). Later this insertion was not in force as s.4 (c), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

(Part II.—Acquisition.—Sections 5, 5A.)

Payment for
damage.

5. The officer so authorised shall at the 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 or other chief revenue-officer of the district, and such decision shall be final.

¹[*Objections.*]

Hearing of
objections.

- ¹5A. (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, ²[within thirty days after the issue of the notification], object to the acquisition of the land or of any land in the locality, as the case may be.
- (2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard ³[either in person] or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, ⁴(submit the case for the decision of the ⁵[appropriate Government], together with the record of the proceedings held by him and a report containing his recommendations on the objections). The decision of the ³[appropriate Government] on the objections shall be final.

¹This section with its heading was inserted by s. 3 of the Land Acquisition (Amendment) Act, 1923 (Act XXXVIII of 1923).

²The words "within thirty days from the date of the publication of the notification" were substituted for the words within square brackets by s. 5 (a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s. 5 (a), *ibid* was repealed by s. 2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

³The words "in person or by any person authorised by him in this behalf" were substituted for the words within square brackets by s. 5(b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.5(b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁴The words "either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government" were substituted for the words within the first brackets by s.2 of the Land Acquisition (Amendment and Validation) Act, 1967 (Act XIII of 1967). Later, this substitution was not in force as s.2, *ibid* was repealed by s.2 of the Repealing and Amending Act, 1974 (Act LVI of 1974).

⁵See foot-note 6 on page 428, *ante*.

of 1894.]

(Part II.—Acquisition.—Section 6.)

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

Declaration of intended Acquisition.

6. (1) Subject to the provisions of Part VII of this Act, ¹(when the ²[appropriate Government] is satisfied, after considering the report, if any, made under section 5A, sub-section (2),) 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. ³[* * * * *]:

Declaration that land is required for a public purpose.

¹The words within the first brackets were substituted for the words "when-ever it appears to the Local Government" by s. 4 of the Land Acquisition (Amendment) Act, 1923 (Act XXXVIII of 1923).

²See foot-note 6 on page 428, *ante*.

³The words "and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1), irrespective of whether one report or different reports has or have been made (wherever required) under section 5A, sub-section (2)" were inserted by s. 3 (a) (i) of the Land Acquisition (Amendment and Validation) Act, 1967 (Act XIII of 1967). Later this insertion was not in force as s. 3(a) (i), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1974 (Act LVI of 1974).

(Part II.—Acquisition.—Section 6.)

¹[Provided that] no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

²* * * *

(2) ³[The declaration] shall be published in the *Official Gazette*, ⁴[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.

¹Initially, a first proviso and the words "provided further that" were substituted for the words within square brackets by s. 3(a) (ii) of the Land Acquisition (Amendment and validation) Act, 1967 (Act XIII of 1967). Then, an another first proviso was substituted for the said first proviso by s. 6 (a) (i) of the Land Acquisition (Amendment) Act, 1984 (Act XLVIII of 1984). Finally, the above substitutions were not in force as s. 3(a) (ii) of Act XIII of 1967 was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1974 (Act LVI of 1974) and s. 6 (a) (i) of Act XLVIII of 1984 was repealed by s.2 of the Repealing and Amending Act, 1988 (Act XIX of 1988).

²"*Explanation 1* and *Explanation 2*" were added at the end of second proviso to sub-section (1) by s. 6 (a) (2) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.6(a) (2), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

³The words "Every declaration" were substituted for the words within square brackets by s.3 (b) of the Land Acquisition (Amendment and Validation) Act, 1967 (Act XIII of 1967). Later, this substitution was not in force as s.3 (b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1974 (Act LVI of 1974).

⁴The words "and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state" were substituted for the words within the square brackets by s.6(b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.6(b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

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(Part II.—Acquisition.—Section 6.)

(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 [appropriate Government] may acquire the land in manner hereinafter appearing.

2*** *** *** *** *** ***

¹See foot-note 6 on page 428, *ante*.

²For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), after section 6, the following section shall be deemed to be inserted, namely :—

"6A. *Publication of notification, hearing of objections and declaration under the Calcutta Improvement Act to be substituted for those under sections 4, 5A, and 6*—When acquisition is proposed to be made of land comprised within any improvement scheme framed by the Board and published under section 49 of the Calcutta Improvement Act, 1911 (Ben. Act V of 1911)—

- (i) the publication of a notice of the improvement scheme under sub-section (2) of section 43 of the Calcutta Improvement Act, 1911, shall be substituted for and have the same effect as publication of a notification in the *Official Gazette* and giving public notice of the substance of such notification in the locality under section 4;
- (ii) proceedings under section 45 and sub-section (1) of section 47 of the Calcutta Improvement Act, 1911, shall be substituted for and have the same effect as proceedings under section 5A;
- (iii) the publication of a notification under section 49 of the Calcutta Improvement Act, 1911, shall be substituted for and have the same effect as a declaration under section 6."

Vide section 71 of, and paragraph 1A of the Schedule to, that Act.

³For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), after section 6, the following section shall be deemed to be inserted, namely :—

"6A. *Publication of notification, hearing of objections and declaration under the Howrah Improvement Act, 1956, to be substituted for those under sections 4, 5A and 6*—When acquisition is proposed to be made of land comprised within any improvement scheme framed by the Board and published under section 51 of the Howrah Improvement Act, 1956—

- (i) the publication of a notice of the improvement scheme under sub-section (2) of section 45 of the Howrah Improvement Act, 1956, shall be substituted for and have the same effect as publication of a notification in the *Official Gazette* and giving public notice of the substance of such notification in the locality under section 4;
- (ii) proceedings under section 47 and sub-section (1) of section 49 of the Howrah Improvement Act, 1956, shall be substituted for and have the same effect as proceedings under section 5A;
- (iii) the publication of a notification under section 51 of the Howrah Improvement Act, 1956, shall be substituted for and have the same effect as a declaration under section 6."

Vide section 70 of, and paragraph 2 of the Schedule to, that Act.

(Part II.—Acquisition.—Sections 7—9.)

After declaration,
Collector to take
order for acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the ¹[appropriate Government], or some officer authorised by the ¹[appropriate Government] in this behalf, shall direct the Collector to take order for the acquisition of the land.

Land to be marked
out, measured and
planned.

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.

Notice to persons
interested.

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.

(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. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(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 authorised 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 at his last known residence, address or place of business and ²[registered under Part III of the ³Indian Post Office Act, 1866.]

XIV of
1866.

¹See foot-note 6 on page 428, *ante*.

²The words and figures "registered under sections 28 and 29 of the Indian Post Office Act, 1898 with the marginal reference VI of 1898" were substituted for the words and figures within square brackets with the marginal reference by s.7 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.7, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

³See now the Indian Post Office Act, 1898 (VI of 1898).

of 1894.]

(Part II.—Acquisition.—Sections 10, 11.)

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), 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 three years next preceeding the date of the statement.

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

(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.

XLV of 1860.

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 and award by Collector.

¹Section 11 was renumbered as sub-section (1) of that section and after such renumbering two provisos were added at the end of that sub-section by s. 8(a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this addition was not in force as s. 8(a), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

(Part II.—Acquisition.—Section 12.)

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 ¹[at the date of the publication of the notification under section 4, sub-section (1)], and into the respective interests of the persons claiming the compensation and shall ²make 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.

3*	*	*	*
3*	*	*	*
3*	*	*	*
4*	*	*	*

12. (1) Such award shall be filed in the Collectors' 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.

Award of
Collector
when to be
final.

¹Inserted by s. 5 of the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923).

²For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), before the words "make an award under his hand" the word "after considering such evidence as may be adduced by the Board under sub-section (2) of section 50" shall be deemed to be inserted, *vide* section 71 of, and paragraph 1B of the Schedule to, that Act.

³For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), before the words "make an award under his hand" the words "after considering such evidence as may be adduced by the Board under sub-section (2) of section 50" shall be deemed to be inserted, *vide* section 70 of, and paragraph 3 of the Schedule to, that Act.

⁴Sub-sections (2), (3) and (4) were inserted by s. 8 (b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, these insertions were not in force as s. 8(b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁵Section 11A with its *Explanation* was inserted by s. 9 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this insertion was not in force as s.9, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

of 1894.]

(Part II.—Acquisition.—Sections 13, 14.)

(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.

Adjournment of enquiry.

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, including the parties interested or any of them, 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 ²Code of Civil Procedure.

Power to summon and enforce attendance of witnesses and production of documents.

XIV of 1882.

¹Section 13A was inserted by s.10 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this insertion was not in force as s.10, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

²The words and figures "Code of Civil Procedure, 1908" with the marginal reference "5 of 1908" was substituted for the words and figure "Code of Civil Procedure" with the marginal reference "14 of 1882" by s.11 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.11, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

(Part II.—Acquisition.—Sections 15—17.)

Matters to be considered and neglected.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 ¹[and 24].

2* * * *

Taking Possession.

Power to take possession.

16. When the Collector has made an award made under section 11, he may take possession of the land, which shall thereupon ²{vest absolutely in the Government}, free from all encumbrances.

Special powers in cases of urgency.

⁴17. (1) In cases of urgency, whenever the ⁵[appropriate 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 section 9, sub-section (1), ⁶[take possession of any waste or arable land needed for public purposes or for a Company]. Such land shall thereupon ³{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 maintenance of their traffic or for the purpose of making thereon a river-side or *ghat* station, or of providing convenient connection with or access to any such station, ⁷* * * the Collector may, immediately after the publication of the notice mentioned in subsection (1) and with the previous sanction of the ⁵[appropriate Government] enter upon and take possession of such land, which shall thereupon ²{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 movable property from such building without unnecessary inconvenience.

¹For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), for the word and figures "and 24" the figures, word and letter "24 and 24A" shall be deemed to be substituted, *vide* section 71 of, and paragraph 3 of the Schedule to, that Act.

²For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), for the word and figures "and 24" the figures, word and letter "24 and 24A" shall be deemed to be substituted, *vide* section 70 of, and paragraph 4 of the Schedule to, that Act.

³Section 15A was inserted by s.12 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this insertion was not in force as s.12, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁴The words "vest absolutely in the Crown" were first substituted for the words "vest absolutely in the Government" by para. 3 and the First Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the word "Government" was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵Section 557 (b) of the Calcutta Municipal Act, 1899 (Ben. Act III of 1899), which has a bearing on section 17, may also be seen.

⁶See foot-note 6 on page 428, *ante*.

⁷The words "take possession of any land needed for a public purpose" were substituted for the words within square brackets by s. 13(a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.13(a), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁸The words "or the appropriate Government considers it necessary to acquire the immediate possession of any land for the purpose of maintaining any structure or system pertaining to irrigation, water supply, drainage, road communication or electricity." were inserted by s.13(b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). But this insertion was not in force as s.13(b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

of 1894.]

(Part II.—Acquisition.—Section 17.)

(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 24¹; 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.

2* * * *

³(4) In the case of any land to which, in the opinion of the ⁴(appropriate Government), the provisions of sub-section (1) or sub-section (2) are applicable, the ⁴(appropriate Government) may direct that the provisions of section 5A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time ⁵(after the publication of the notification) under section 4, sub-section (1).

6* * * *

¹For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), after the figures "24" the words, figures and letter "or section 24A" shall be deemed to be inserted *vide* section 71 of, and paragraph 4(1) of the Schedule to, that Act.

¹For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), after the figures "24" the words, figures and letter "or section 24A" shall be deemed to be inserted, *vide* section 70 of, and paragraph 5(1) of the Schedule to, that Act.

²Sub-sections (3A) and (3B) were inserted by s.13(c) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this insertion was not in force as s.13(c), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

³Added by s. 6 of the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923).

⁴See foot-note 6 on page 428, *ante*.

⁵The words "after the date of the publication of the notification" were substituted for the words within first brackets by s.13(d) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.13(d), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁴For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911),—

(a) to section 17 the following sub-sections shall be deemed to be added, namely :—

"(4) Sub-sections (1) and (3) shall apply also in the case of any area which is stated in a certificate granted by a salaried Presidency Magistrate or a Magistrate of the first class to be unhealthy.

(5) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub-section (3) of section 9, and shall hear without any avoidable delay any objections which may be urged by them.

(6) When proceedings have been taken under this section for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession."

Vide section 71 of, and paragraph 4(2) of the Schedule to, that Act; and

(b) after section 17 the following section shall be deemed to be inserted, namely :—

(Foot-note 6 concluded next page)

(Part III.—Reference to Court and Procedure thereon.—
Section 18.)

PART III

Reference to Court and Procedure thereon.

Reference
to Court.

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 the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, 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, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

(Foot-note 6 continued from previous page concluded)

"17A. *Transfer of land to Board.*—In every case referred to in section 16 or section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Board; and the land shall thereupon vest in the Board, subject to the liability of the Board to pay any further costs which may be incurred on account of its acquisition."

Vide section 71 of, and paragraph 5 of the Schedule to that Act.

"For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956),—

(a) to section 17 the following sub-sections shall be deemed to be added, namely :—

"(5) Sub-sections (1) and (3) shall apply also in the case of any area which is stated in a certificate granted by a salaried Magistrate of the first class to be unhealthy.

(6) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub-section (3) of section 9, and shall hear without any avoidable delay any objections which may be urged by them.

(7) When proceedings have been taken under this section for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession."

Vide section 70 of, and paragraph 5(2) of the Schedule to, that Act; and

(b) after section 17 the following section shall be deemed to be inserted, namely :—

"17A. *Transfer of land to Board.*—In every case referred to in section 16 or section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Board; and the land shall thereupon vest in the Board, subject to the liability of the Board to pay any further costs which may be incurred on account of its acquisition."

Vide section 70 of, and paragraph 6 of the Schedule to, that Act.

of 1894.]

(Part III.—Reference to Court and Procedure thereon.—
Sections 19—23.)

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

Collector's
statement
to the
Court.

- (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; ¹[and]

2* * *

- (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

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 :—

Service of
notice.

- (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 enquiry in every such proceeding shall be restricted to a consideration of the interest of the persons affected by the objection.

Restriction on
scope of
proceedings.
Proceedings
to be in
open Court.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the State 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—

Matters to
be consid-
ered in
deter-
mining
compen-
sation.

⁴first, the market-value of the land at the date of the publication of the ⁵[notification under section 4, sub-section (1)];

⁶secondly, 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;

⁷thirdly, 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;

¹The word within square brackets was omitted by s.14(a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this omission was not in force as s.14(a), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

²The clause (cc) was inserted by s.14(b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this insertion was not in force as s.14(b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

³Substituted for the word "Province" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁴For the purpose of acquisition of land under the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), clause first shall be deemed to be amended as provided for in section 523 of that Act.

⁵Subs. by s. 7 of the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923) for the words "Declaration relating thereto under section 6".

[Act I

(Part III.—Reference to Court and Procedure thereon.—
Section 23.)

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, movable 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;¹ * * * *

sixthly, the damage (if any) *bona 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 ²[possession of the land; and]

³*seventhly*, the loss of earning, if any, caused to the person interested, in consequence of the acquisition of the land, where earning was derived directly from such land.

4*	*	*	*	*	*
5*	*	*	*	*	*
6*	*	*	*	*	*

¹The word "and" was omitted with retrospective effect by s. 4(I) (i) of the Land Acquisition (West Bengal Amendment) Act, 1963 (West Ben. Act XXX of 1963).

²These words were substituted with retrospective effect for the words "possession of the land." by s. 4(I) (ii), *ibid*.

³Clause seventhly was added with retrospective effect by s. 4(I) (iii), *ibid*.

⁴Sub-section (1A) with the *Explanation* was inserted by s.15(a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this insertion was not in force as s.15(a), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁵Firstly, sub-section (2) of s. 23 shall be deemed to be omitted by s. 71 of, and paragraph 9(I) of the Schedule to, the Calcutta Improvement Act, 1911 (Ben. Act V of 1911). Secondly, the said sub-section shall be deemed to be omitted by s. 70 of, and paragraph 7(I) of the schedule to, the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956). Finally, the said sub-section shall be omitted by s. 3 of the Land Acquisition Act, 1975 (West Ben. Act IX of 1975).

⁶For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), at the end of section 23 the following sub-section shall be deemed to be added, namely :—

"(3) For the purposes of clause first of sub-section (1) of this section,—

(a) when acquisition is proposed to be made by the Board of land comprised within any improvement scheme framed by the Board and published under section 49 of the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), the market-value of the land shall be deemed to be the market-value according to the disposition of the land at the date of publication of the notice under sub-section (2) of section 43 of the said Act; and in other cases, the market-value shall be deemed to be the market-value according to the disposition of the land at the date of publication of the notification relating thereto under section 4;

(bb) if the market-value has been increased or decreased owing to the land falling within or near to the alignment of a projected public street so much of the increase or decrease as may be due to such cause shall be disregarded;

(Foot-note 6 continued next page)

of 1894.]

(Part III.—Reference to Court and Procedure thereon.—
Section 23.)

6* * * * *

(Foot-note 6 starting from page 444, continued)

- (bbb) if any person, without the permission of the Chairman required by section 63, sub-section (8), of the Calcutta Improvement Act, 1911, has erected, re-erected or added to any wall (exceeding ten feet in height) or building within the street alignment or building line of a projected public street or having erected, re-erected or added to any wall or building as aforesaid with such permission fails to remove such wall or building or any specified portion thereof when so required by notice issued under sub-section (9) of the said section, then any increase in the market-value resulting from such erection, re-erection or addition shall be disregarded;
- (c) if the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the date with reference to which the market-value is to be determined such increase shall be disregarded, unless it be proved that the improvement was made *bona fide* and not in contemplation of proceedings for the acquisition of the land being taken under this Act;
- (d) if the market-value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded, and the market-value shall be deemed to be the market-value of the land if put to ordinary uses; and
- (e) if the market-value of any building is specially high in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded, and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as could be accommodated in it without risk of danger from overcrowding."

Vide section 71 of, and paragraph 9(2) of the Schedule to, that Act.

"For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), at the end of section 23, the following sub-section shall be deemed to be added, namely :—

- "(3) For the purposes of clause first of sub-section (1) of this section,—
- (a) when acquisition is proposed to be made by the Board of land comprised within any improvement scheme framed by the Board and published under section 51 of the Howrah Improvement Act, 1956, the market-value of the land shall be deemed to be the market-value according to the disposition of the land at the date of publication of the notice under sub-section (2) of section 45 of the said Act; and in other cases, the market-value shall be deemed to be the market-value according to the disposition of the land at the date of publication of the notification relating thereto under section 4;
- (b) if the market-value has been increased or decreased owing to the land falling within or near to the alignment of a projected public street, so much of the increase or decrease as may be due to such cause shall be disregarded;
- (c) if any person, without the permission of the Chairman required by sub-section (8) of section 63 of the Howrah Improvement Act, 1956, has erected, re-erected or added to any wall (exceeding ten feet in height), or building within the street alignment or building line of a projected public street or a projected public park, or
- (Foot-note 6 starting from page 444 concluded next page)*

(Part III.—Reference to Court and Procedure thereon.—
Section 24.)

¹(4) Compensation payable to a *bargadar* for loss of earning under clause *seventhly* of sub-section (1) shall not exceed three times the net average annual income which was derived or might be derived from the land during three years immediately preceding the date of acquisition.

Explanation.—The net annual income of a *bargadar* in any year shall be taken to be fifty *per cent.* of the total produce of the land cultivated by him in that year.

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 is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, 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; ²[or]

Matters to be neglected in determining compensation.

(Foot-note 6 starting from page 444 concluded)

- having erected, re-erected or added to any wall or building as aforesaid with such permission fails to remove such wall or building or any specified portion thereof when so required by notice, issued under sub-section (9) of the said section, then any increase in the market-value resulting from such erection, re-erection or addition shall be disregarded;
- (d) if any person erects, re-erects or adds to any wall (exceeding ten feet in height), or building within a projected sewage disposal site or having erected, re-erected or added to any wall or building as aforesaid fails to remove such wall or building or any specified portion thereof when so required by a notice issued by the Board, then any increase in the market-value resulting from such erection, re-erection or addition shall be disregarded;
 - (e) if the market-value has been increased by means of any improvement made by the owner or his predecessor-in-interest within two years before the date with reference to which the market-value is to be determined, such increase shall be disregarded, unless it be proved that the improvement was made *bona fide* and not in contemplation of proceedings for the acquisition of the land being taken under this Act;
 - (f) if the market-value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded, and the market-value shall be deemed to be the market-value of the land if put to ordinary uses; and
 - (g) if the market-value of any building is specially high in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded, and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as could be accommodated in it without risk of danger from overcrowding."

Vide section 70 of, and paragraph 7(2) of the Schedule to, that Act.

¹Sub-section (4) was added with retrospective effect by s. 4(2) of the Land Acquisition (West Bengal Amendment) Act, 1963 (West Ben. Act XXX of 1963).

²The word within square brackets was omitted by s.16(a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this omission was not in force as s.16(a), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

of 1894.]

(Part III.—Reference to Court and Procedure thereon.—
Section 24.)

¹seventhly, any outlay of improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the ²[notification under section 4, sub-section (1)]³ * * * * *

3 * * * * *
4 * * * * *

⁴For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), for clause seventhly of section 24 the following clause shall be deemed to be substituted, namely :—

"Seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date with reference to which the market-value is to be determined, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair."

Vide section 71 of, and paragraph 10 of the Schedule to, that Act.

⁴For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), for clause seventhly of section 24, the following clause shall be deemed to be substituted, namely :—

"seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date with reference to which the market-value is to be determined, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair."

Vide section 70 of, and paragraph 8 of the Schedule to, that Act.

²Substituted by s. 8 of the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923) for the words "declaration under section 6."

³The word "or" was inserted at the end of clause "seventhly" and after such amendment clause "eighthly" was added by s.16(b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, these amendments were not in force as s.16(b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁴For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), after section 24, the following section shall be deemed to be inserted, namely :—

"24A. Further provisions for determining compensation.—In determining the amount of compensation to be awarded for any land acquired for the Board under this Act, the Tribunal shall also have regard to the following provisions, namely :—

- (1) when any interest in any land acquired under this Act has been acquired after the date with reference to which the market-value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land;
- (2) if, in the opinion of the Tribunal, any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which the Tribunal considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, minus the estimated cost of putting it into such condition or state;
- (3) if, in the opinion of the Tribunal, any building, which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for human habitation, the amount of compensation shall not exceed the value of the materials of the building, minus the cost of demolishing the building;
- (4) if any tank in any area comprised within a scheme framed by the Board and published under section 49 of the Calcutta Improvement Act, 1911, is, on account of accumulation of filth, rubbish or putrid matter or of the percolation of foul water from the kitchen, court-yard, privy or urinal, or for any other cause, in an unhygienic condition or contains water which is

(Foot-note 4 concluded next page)

(Part III.—Reference to Court and Procedure
thereon.—Section 24.)

4* * * * *

(foot-note 4 starting from page 447 concluded.)

discoloured or malodorous or unfit for use for domestic purposes, or is a source of nuisance or disease, then notwithstanding anything contained in any law for the time being in force, the Tribunal shall, in determining the amount of compensation, make such deduction from the market-value of the tank according to its present disposition as will, in their opinion, be a reasonable set-off against the cost to society in unhealthiness, disease and discomfort caused by the tank being kept in such an unhygienic or insanitary condition."

Vide section 71 of, and paragraph 11 of the Schedule to, that Act.

"For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), after section 24, the following section shall be deemed to be inserted, namely :—

"24A. *Further provisions for determining compensation.*—In determining the amount of compensation to be awarded for any land acquired for the Board under this Act, the Tribunal shall also have regard to the following provisions, namely :—

- (1) when any interest in any land acquired under this Act has been acquired after the date with reference to which the market-value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land;
- (2) if, in the opinion of the Tribunal, any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which the Tribunal considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, *minus* the estimated cost of putting it into such condition or state;
- (3) if, in the opinion of the Tribunal, any building, which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for human habitation, the amount of compensation shall not exceed the value of the materials of the building, *minus* the cost of demolishing the building;
- (4) if any tank in any area comprised within a scheme framed by the Board and published under section 51 of the Howrah Improvement Act, 1956 is, on account of accumulation of filth, rubbish or putrid matter or of the percolation of foul water from the kitchen, courtyard, privy or urinal, or for any other cause, in an unhygienic condition or contains water which is discoloured or malodorous or unfit for use for domestic purposes, or is a source of nuisance or disease, then notwithstanding anything contained in any law for the time being in force, the Tribunal shall, in determining the amount of compensation, make such deduction from the market-value of the tank according to its present disposition as will, in their opinion, be a reasonable set-off against the cost to society in unhealthiness, disease and discomfort caused by the tank being kept in such an unhygienic or insanitary condition."

Vide section 70 of, and paragraph 9 of the Schedule to, that Act.

of 1894.]

(Part III.—Reference to Court and Procedure thereon.—
Sections 25—28.)

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.

Rules as to amount of compensation.

(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. ²[(1)] Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* 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.

Form of awards.

³(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgement within the meaning of section 2, clause (2), and section 2, clause (9), respectively, of the Code of Civil Procedure, 1908.

V of 1908.

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.

Costs.

³(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 ⁴[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.

Collector may be directed to pay interest on excess compensation.

5 *	*	*	*	*	*
6 *	*	*	*	*	*

¹Section 25 was substituted for the original section by s. 17 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later the original section was in force as s. 17, *ibid* repealed by s. 2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

²Section 26 was renumbered as s. 26(1), and sub-section (2) was added by s.2 of the Land Acquisition (Amendment) Act, 1921 (XIX of 1921).

³For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), sub-section (2) of section 27 shall be deemed to be omitted. *vide* section 71 of, and paragraph 12A of the Schedule to, that Act.

⁴For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), sub-section (2) of section 27 shall be deemed to be omitted, *vide* section 70 of, and paragraph 10 of the Schedule to, that Act.

⁵The words "nine per centum" were substituted for the words within square brackets by s. 18(a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this substitution was not in force as s. 18 (a), *ibid* was repealed by s. 2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁶The proviso was inserted by s. 18(b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this insertion was not in force as s. 18(b), *ibid* was repealed by s. 2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁷Section 28A was inserted by s. 19 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later this insertion was not in force as s. 19, *ibid* was repealed by s. 2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

(Part IV.—Apportionment of Compensation.—Sections 29, 30.—Part V.—Payment.—Sections 31, 32.)

PART IV

APPORTIONMENT OF COMPENSATION.

Particulars
of apportion-
ment to be
specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute
as to
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.

Payment
of compensation
or
deposit of
same in
Court.

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 unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(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 admitted to be interested may receive such payment under protest as to the sufficiency of the amount :

Provided further 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 '[appropriate 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 ²competent to contract in respect thereof.

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

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 where of the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

(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

¹See foot-note 6 on page 428, ante.

²As to persons who are competent to contract, see s. 11 of the Indian Contract Act, 1872 (IX of 1872).

of 1894.]

(Part V.—Payment.—Sections 32A, 33.)

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

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.

(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.

32A. If, according to an award made by the Collector under this Act, the person interested entitled to any compensation or costs awarded (hereafter in this section referred to as the payee) is a minor or a lunatic, then, notwithstanding anything to the contrary in this Act or in any other law, the Collector shall have the power to pay the amount of such compensation or costs before it is deposited in the Court under sub-section (2) of section 31 or it may be paid by the Court after it is so deposited but before it is invested under section 32,—

(a) where the payee is a minor, to the guardian of the minor, and

(b) where the payee is a lunatic, to the manager of the estate of the lunatic appointed under the Indian Lunacy Act, 1912 :

Provided that except in the case of the following classes of guardians, that is to say,

- (i) a natural guardian,
- (ii) a guardian appointed by the will of a minor's father or mother,
- (iii) a guardian appointed or declared by a Court, and
- (iv) a person empowered to act as or exercise the powers of a guardian by or under any enactment relating to court of wards,

no payment as aforesaid shall be made unless the guardian furnishes security in accordance with prescribed rules.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in ²[section 32], 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

Compensation awarded to minors and lunatics to be paid.

Investment of money deposited in other cases.

¹This section was inserted by s. 3 of the Land Acquisition (West Bengal Amendment) Act, 1964 (West Ben. Act XXIV of 1964).

²The word and figures within square brackets were substituted for the words "the last preceding section" by s. 4, *ibid.*

[Act I

(Part V.—Payment.—Section 34.—Part VI.—Temporary Occupation of Land.—Sections 35, 36.)

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.

Payment of interest.

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

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

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the ³[appropriate Government] that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the ³[appropriate 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.

Power to enter and take possession, and compensation on restoration.

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 :

¹The words "nine per centum" were substituted for the words within the square brackets by s. 20(a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s. 20(a), *ibid* was repealed by s. 2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

²A proviso was added to section 34 by s. 20(b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s. 20(b), *ibid* was repealed by s. 2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

³See foot-note 6 on page 428. *ante*.

of 1894.]

(Part VI.—Temporary Occupation of Land.—Section 37.—Part VII.—Acquisition of Land for Companies.—Section 38.)

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 [appropriate 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.

PART VII

ACQUISITION OF LAND FOR COMPANIES.

38. (1) * * * The [appropriate Government] may authorise any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

Difference as to condition of land.

Company may be authorised to enter and survey.

¹See foot-note 6 on page 428, *ante*.

²Section 38 was omitted by s. 21 of the Land Acquisition. (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this omission was not in force as s. 21, *ibid* was repealed by s. 2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

³The words "Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf" were repealed by s.2 and Schedule I of the Devolution Act, 1920 (XXXVIII of 1920).

(Part VII.—Acquisition of Land for Companies.—Sections 38A—41.)

(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.

Industrial concern to be deemed Company for certain purposes.

¹38A. An industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall, so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this Part, and the references to Company in sections ²[5A, 6, 7, 17 and 50] shall be interpreted as references also to such concern.

Previous consent of appropriate Government and execution of agreement necessary.

39. The provisions of ³[sections 6 to 37 (both inclusive)] shall not be put in force in order to acquire land for any Company ⁴* * * * unless with the previous consent of the ⁵[appropriate Government], nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous enquiry.

40. (1) Such consent shall not be given unless the ⁶[appropriate Government] be satisfied, ⁷[either on the report of the Collector under section 5A, sub-section (2), or] by an enquiry held as hereinafter provided :—

⁷(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or

⁸(aa) that such acquisition is needed for the construction of some building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, or

⁷(b) that such acquisition is needed for the construction of some work, and 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 ⁹[appropriate 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 ⁹[Code of Civil Procedure, 1882,] in the case of a Civil Court.

Agreement with appropriate Government.

41. ¹⁰* * if the ⁹[appropriate Government] is satisfied ¹¹[after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an enquiry under

XIV of 1882.

¹Inserted by s. 6 of the Land Acquisition (Amendment) Act, 1933 (XVI of 1933).

²The words, figures and letter "sections 4, 5A, 6, 7 and 50" were substituted for the words, figures and letter within the square brackets by s.22 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.22, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

³The words, figures and brackets "sections 6 to 16 (both inclusive) and sections 18 to 37 (both inclusive)" were substituted for the words, figures and brackets within the square brackets by s.23(a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.23 (a), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁴The words "under this Part" were inserted by s.23 (b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.23 (b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁵See foot-note 6 on page 428, *ante*.

⁶Inserted by s. 9 of the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923).

⁷Substituted for the original clauses (a) and (b) by s. 3 of the Land Acquisition (Amendment) Act, 1933 (XVI of 1933).

⁸Inserted by s. 3 of the Land Acquisition (Amendment) Act, 1962 (XXXI of 1962).

⁹The words and figures "Code of Civil Procedure, 1908" with the marginal reference "5 of 1908" was substituted for the words and figures within square brackets with the marginal reference by s.24 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.24, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

¹⁰The words "Such officer shall report to the Local Government the result of the enquiry, and," were omitted by s. 16 of the Land Acquisition (Amendment) Act, 1923 (XXXVIII of 1923).

¹¹Inserted by s. 10, *ibid*.

of 1894.]

(Part VII.—Acquisition of Land for Companies.—Section 42.)

section 40] that ¹[the proposed acquisition is for any of the purposes referred to in clause (a) or clause (aa) or clause (b) of sub-section (1) of section 40], it shall ²* * * require the Company to enter into an agreement ³[with the ⁴appropriate Government] providing to the satisfaction of the ⁴[appropriate Government] for the following matters, namely :—

(1) the ⁵[payment to the ⁴appropriate Government] or 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;

⁶[(4) where the acquisition is for the purpose of erecting dwelling houses or the provision of amenities connected therewith, the time within which, the conditions on which and the manner in which the dwelling houses or amenities shall be erected or provided; ⁷* * *

⁷(4A) where the acquisition is for the construction of any building or work for a Company which is engaged or is taking steps for engaging itself in any industry or work which is for a public purpose, the time within which, and the conditions on which, the building or work shall be constructed or executed; and

(5) where the acquisition is for the construction of any other work, the time within which and the conditions on which the work shall be executed and maintained, and 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 ⁸* * * in the ⁹[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.

Publication
of
agreement.

¹Substituted for the words "the purpose of the proposed acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith, or that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public" by s. 4(a) of the Land Acquisition (Amendment) Act, 1962 (XXXI of 1962).

²The words "subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf" were repealed by s. 2 and Schedule 1 of the Devolution Act, 1920 (XXXVIII of 1920).

³The words "with the Provincial Government" were first substituted for the words "with the Secretary of State for India in Council" by para. 3 and the First Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter the words "appropriate Government" were substituted for the words "Provincial Government" by para. 3 and the First Schedule of the Adaptation of Laws Order, 1950.

⁴See foot-note 6 on page 428, *ante*.

⁵The words "payment to the Provincial Government" were first substituted for the words "payment to Government". Thereafter the words "appropriate Government" were substituted for the words "Provincial Government" by para. 3 and the First Schedule of the Adaptation of Laws Order, 1950.

⁶These clauses (4) and (5) excluding clause (4A) were substituted for the original clauses (4) and (5) by s. 4 of the Land Acquisition (Amendment) Act, 1933 (XVI of 1933).

⁷The word "and" at the end of clause (4) was omitted and after that clause, clause 4A was inserted by s.4 (b) of the Land Acquisition (Amendment) Act, 1962 (XXXI of 1962).

⁸The words "in the Gazette of India and also" were omitted by para. 3 and the First Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁹Substituted for the words "local official Gazette" by para. 4(J), *ibid*.

*(Part VII.—Acquisition of Land for Companies.—Sections**43—44B.—Part VIII.—Miscellaneous.—Section 45.)*

Sections 39 to 42 not to apply where Government bound by agreement to provide land for Companies.

How agreement with Railway Company may be proved.

Restriction on transfer, etc.

Land not to be acquired under this Part except for certain purpose for private companies other than Government companies.

Service of notices.

43. The provisions of sections 39 to 42, both inclusive, shall not apply and the corresponding sections of the ¹Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other company, for the purposes of which, ²[under any agreement with such company, the Secretary of State for India in Council, the Secretary of State, the Central Government or any State 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.

³44A. No Company for which any land is acquired under this Part shall be entitled to transfer the said land or any part thereof by sale, mortgage, gift, lease or otherwise except with the previous sanction of the appropriate Government.

³44B. Notwithstanding anything contained in this Act, no land shall be acquired under this Part, except for the purpose mentioned in clause (a) of sub-section (1) of section 40, for a private company which is not a Government company.

Explanation.—'Private company' and 'Government company' shall have the meanings respectively assigned to them in the Companies Act, 1956.

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

¹Repealed by this Act.

²The words "under any agreement between such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land" were omitted and the words "under any agreement with such Company, the Secretary of State for India in Council, the Secretary of State, or any Government in British India is or was bound to provide land" were inserted by para. 3 and the First Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937. Thereafter "the Central Government or any Provincial Government" were substituted for the words "or any Government in British India" by para. 3 and the Schedule of the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948; and the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

³Sections 44A and 44B were inserted by s. 5 of the Land Acquisition (Amendment) Act, 1962 (XXXI of 1962).

of 1894.]

(Part VIII.—Miscellaneous.—Sections 46—48.)

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 at his last known residence, address or place of business and ¹[registered under Part III of the ²Indian Post Office Act, 1866], and service of it may be proved by the production of the addressee's receipt.

XIV of
1866.

46. Whoever wilfully obstructs any person in doing any of the acts authorised 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 ³[fifty rupees], or to both.

Penalty for obstructing acquisition of land.

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.

Magistrate to enforce surrender.

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.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

(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.

¹The words and figures "registered under sections 28 and 29 of the Indian Post Office Act, 1898" were substituted for the words and figures within square brackets by s.25 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.25, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

²See now the Indian Post Office Act, 1898 (VI of 1898).

³The words "five hundred rupees" were substituted for the words within square brackets by s.26 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.26, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

(Part VIII.—Miscellaneous.—Section 49.)

Acquisition
of part of
house or
building.

* * * * *

49. ²(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 :

For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), after section 48, the following sections shall be deemed to be inserted, namely :—

"48A. *Compensation to be awarded when land not acquired within two years.*—

(1) If, within a period of two years from the date of the issue of the public notice under sub-section (1) of section 9, in respect of any land, the Collector has not made an award under section 11 with respect to such land, the owner of the land shall be entitled to receive compensation for the damage suffered by him in consequence of the delay.

(2) 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.

48B. *Sections 48 and 48A not to apply in certain cases.*—No compensation shall be payable in pursuance of section 48 or section 48A when proceedings for the acquisition of land have been abandoned on the execution of an agreement, or the acceptance of a payment, in pursuance of sub-section (4) of section 78 of the Calcutta Improvement Act, 1911 (Ben. Act V of 1911)."

Vide section 71 of, and paragraph 13 of the Schedule to, that Act.

For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), after section 48, the following sections shall be deemed to be inserted, namely :—

"48A. *Compensation to be awarded when land not acquired within two years.*—

(1) If, within a period of two years from the date of the issue of the public notice under sub-section (1) of section 9, in respect of any land, the Collector has not made an award under section 11 with respect to such land, the owner of the land shall be entitled to receive compensation for the damage suffered by him in consequence of the delay.

(2) 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.

48B. *Sections 48 and 48A not to apply in certain cases.*—No compensation shall be payable in pursuance of section 48 or section 48A when proceedings for the acquisition of land have been abandoned on the execution of an agreement, or the acceptance of a payment, in pursuance of sub-section (4) of section 79 of the Howrah Improvement Act, 1956."

Vide section 70 of, and paragraph 11 of the Schedule to, that Act.

For the purpose of acquisition of land for the Board of Trustees for the improvement of Calcutta under the Calcutta Improvement Act, 1911 (Ben. Act V of 1911), for sub-section (1) of section 49, the following sub-section shall be deemed to be substituted, namely :—

"(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 acquisition of the part will render the full and unimpaired use of the remaining portion of the house, manufactory or building impracticable :

Provided that if any question shall arise as to whether the part proposed to be acquired will render the full and unimpaired use of the remaining portion of the house, manufactory or building impracticable, the Collector shall refer the determination of such question to the Court and shall not take possession of such part until after the question has been determined.

In deciding on such a reference the Court shall have regard only to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the remaining portion of the house, manufactory or building."

Vide section 71 of, and paragraph 14 of the Schedule to, that Act.

(Foot-note 2 concluded next page)

of 1894.]

(Part VIII.—Miscellaneous.—Section 49A.)

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 does 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.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(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 ¹[appropriate 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 herebefore 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 ²[appropriate Government] to the person interested, and shall thereafter proceed to make his award under section 11.

²49A. (1) Where the owner desires under sub-section (1) of section 49 that the whole of any house, manufactory or building shall be acquired, the provisions of that sub-section shall have effect only when the Collector is satisfied that the acquisition of a part only of

Circumstances in which section 49 shall be put in force.

(Foot-note 2 from the previous page concluded)

²For the purpose of acquisition of land for the Board of Trustees for the improvement of Howrah under the Howrah Improvement Act, 1956 (West Ben. Act XIV of 1956), for sub-section (1) of section 49, the following sub-section shall be deemed to be substituted, namely :—

“(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 acquisition of the part will render the full and unimpaired use of the remaining portion of the house, manufactory or building impracticable :

Provided that if any question shall arise as to whether the part proposed to be acquired will render the full and unimpaired use of the remaining portion of the house, manufactory or building impracticable, the Collector shall refer the determination of such question to the Court and shall not take possession of such part until after the question has been determined.

In deciding on such a reference the Court shall have regard only to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the remaining portion of the house, manufactory or building.”

Vide section 70 of, and paragraph 12 of the *Schedule to, that Act.

¹See foot-note 6 on page 428, *ante*.

²This section with its marginal note was inserted by s. 3 of the Land Acquisition (West Bengal Amendment) Act, 1986 (West Ben. Act XXXVI of 1986).

(Part VIII.—Miscellaneous.—Sections 50, 51.)

such house, manufactory or building shall so adversely affect the use of the remaining part for the purpose for which it was being used as to justify the acquisition of the whole of the house, manufactory or building, as the case may be.

(2) Where the owner withdraws or modifies under the first proviso to sub-section (1) of section 49 his expressed desire that the whole of such house, manufactory or building shall be so acquired, it shall be lawful for the Collector to put in force the provisions of this Act for the purpose of acquiring a part only of such house, manufactory or building, as the case may be, in conformity with such withdrawal or modification.

¹(3) The provisions of this section shall apply to a multi-storeyed building where the State Government or the Central Government or any Government undertaking, State or Central, has been occupying any portion of any floor or any flat for the purpose of its office, either as a monthly tenant or otherwise, and intends to retain such floor or flat, as the case may be, permanently under occupation, in any area within—

(a) Calcutta as defined in clause (9) of section 2 of the Calcutta Municipal Corporation Act, 1980, or

(b) Howrah as defined in clause (15) of section 2 of the Howrah Municipal Corporation Act, 1980, to the exclusion of any other area in West Bengal, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force.

West Ben.
Act LIX
of 1980,
West Ben.
Act LVIII
of 1980.

Explanation.—For the purposes of this section, “multi-storeyed building” shall mean a building comprising more than one storey and containing a number of flats which may be treated as independent units but which are part of such building having direct access or exit to a road, street, or high way or to a common area or facility leading to such road, street, or highway, which, together with its undivided interest in such common area and facility, forms in independent residential unit.

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.

Acquisition of land
at cost of a local au-
thority or Company.

Exemption form
stamp-duty and fees.

¹This sub-section with the *Explanation* was inserted by s.3 of the Land Acquisition (West Bengal Amendment) Act, 1993 (West Ben. Act XXV of 1993).

of 1894.]

(Part VIII.—Miscellaneous.—Sections 52—54.)

1* * * * *

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.

Notice in case of suits for anything done in pursuance of Act.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the ²[Code of Civil Procedure, 1882], shall apply to all proceedings before the Court under this Act.

Code of Civil Procedure to apply to proceedings before Court.

54. Subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to ⁴[the Supreme Court] subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV thereof.

Appeals in proceedings before Court.

XIV of 1882.

V of 1908.

¹Section 51A was inserted by s.27 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this insertion was not in force as s.27, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

²See now the Code of Civil Procedure, 1908 (V of 1908).

Thereafter the words and figures "Code of Civil Procedure, 1908" were substituted for the words and figures within square brackets by s.28 of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Finally, this substitution was not in force as s.28, *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

³Substituted for the original section by s. 3 of the Land Acquisition (Amendment) Act, 1921 (XIX of 1921).

⁴Substituted for "His Majesty in Council" by para. 3 and the First Schedule of the Adaptation of Laws Order, 1950.

(Part VIII.—Miscellaneous.—Section 55.)

Power to
make
rules.

55. (1) The ¹[appropriate Government] shall ²* * * 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 :

3* * * * *

⁴Provided that the power to make rules for carrying out the purposes of Part VII of this Act shall be exercisable by the Central Government and such rules may be made for the guidance of the State Governments and the officers of the Central Government and of the State Governments :

⁴Provided further that every such rule made by the Central Government shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, ⁵[before the expiry of the session in which it is so laid or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

6* * * * *

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall ⁷* * * be published in the *Official Gazette*, and shall thereupon have the force of law.

¹See foot-note 6 on page 428, *ante*.

²The words "subject to the control of the Governor General in Council" were repealed by s. 2 Schedule I of the Devolution Act, 1920 (XXXVIII of 1920).

³The original proviso was repealed by para. 3 and the First Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴These provisos were added by s. 6 of the Land Acquisition (Amendment) Act, 1962 (XXXI of 1962).

⁵The words "before the expiry of the session immediately following the session or the successive sessions aforesaid" were substituted for the words within square brackets by s.29 (a) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this substitution was not in force as s.29(a), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁶The proviso was inserted by s.29(b) of the Land Acquisition (Amendment) Act, 1984 (Act LXVIII of 1984). Later, this insertion was not in force as s.29(b), *ibid* was repealed by s.2 of, and the 1st Schedule to, the Repealing and Amending Act, 1988 (Act XIX of 1988).

⁷The words "when sanctioned by the Governor General in Council" were repealed by s. 2 and Schedule, Part I, of the Decentralization Act, 1914 (IV of 1914).