

**BENGAL, MADRAS AND BOMBAY.--PUBLIC WORKS AND
RAILWAYS.**

ACT No. XLII. OF 1850.

[*Passed on the 20th December, 1850.*

Recites Bengal R. 1, 1824, relating to taking land for public purposes.

1. *Enacts. Any Railway made with sanction of Government to be a public work within R. 1, 1824.*
2. *Empowers persons making surveys for Railway, &c. to enter on, mark out the line, and with the sanction of Government Officer clear the land, but to enter the curtilage of any house only between sunrise and sunset.*
3. *Government Officer to estimate damage done in order that compensation may be made.*
4. *Persons wilfully obstructing survey, &c. liable to fine and imprisonment.*
5. *If Government Officer has recorded his opinion that land is needed, &c. he may take possession thereof and value thereof, if not agreed upon, to be ascertained under R. 1. 1824; and possession of land may be taken as of land sold under decrees in Civil Courts. &c.*
6. *Magistrate to aid Officer in obtaining possession of the land.*
7. *Powers of R. 1, 1824, to extend in case of railway, &c. to taking temporary possession of land 100 yards from centre of railway, &c. and erecting temporary buildings, &c. Compensation to be given for such temporary occupation, &c.*
8. *Local Government may empower any Officer to make award, &c. and settle disputes without reference to Government.*
- 9, 10, 11. *Land taken for public work otherwise than according to R. 1, 1824, to vest in E. I. C. after 5 years of non-claim, and (10) the 5 years how to be reckoned and (11) if right to the land is established, compensation or value to be paid for it.*

An Act for giving additional facilities for Public Works in Bengal.

Whereas, by Regulation I. 1824, of the Bengal Code, power was given for taking any land in the territories subject to the Presidency of Fort William in Bengal, which is needed for any

public purpose, according to the forms therein prescribed, but it is expedient for hindering needless delay in making the Railway about to be constructed in the said Presidency under the sanction of Government, and also in any other public work that more summary power should in certain cases be given for gaining immediate possession of the land needed for such public work.

It is declared and enacted as follows:

I. Any Railway made in the said territories under the sanction of Government, is a public work within the meaning of the said Regulation.

II. The persons employed in any public work, with their servants and workmen, may enter upon any land for surveying the ground, and in the case of a road, canal or railway for setting out the intended line thereof, and in the case of any intended road, canal or railway may mark the intended line by cutting a trench or placing landmarks along the line, and where otherwise the survey cannot be completed, and the line marked, may, with the sanction of the Government or of any officer appointed by Government for this purpose, cut down and clear away any part of any jungle or top of trees in the direction of the intended line. Provided that no person shall enter the curtilage of any house under colour of this Act without consent of the occupier, unless between sunrise and sunset, and after due notice given to such occupier.

III. It shall be the duty of the officer so appointed by the Government to take account of all necessary damage done as aforesaid, that it may be allowed for, in awarding compensation to the owners and occupiers of land.

IV. Whoever wilfully obstructs any person in lawfully setting out the line of any road, canal or railway, or wilfully destroys, damages, or displaces any such landmark, or effaces, or fills any such trench, shall be liable to be imprisoned for any term not exceeding six months, and also to fine not exceeding two hundred Rupees.

V. Whenever the said officer shall have recorded his opinion that the land in dispute is needed immediately for the purpose of the public work, he shall be empowered to take immediate possession thereof on behalf of the Government, leaving the amount and distribution of the consideration to be paid for it,

if not agreed to by private bargain to be afterwards ascertained according to the said Regulation, and such possession may be enforced and the obstruction of it punished in like manner as if the land so taken had been sold in execution of the decree of a Civil Court: and all Collectors, Magistrates and other officers shall, if necessary, give the like aid as they would be bound to give for enforcing the speedy and complete execution of any such decree.

VI. If the said officer is opposed or impeded in taking immediate possession of such land as in his opinion is immediately needed, he shall apply to the Magistrate of the district, who shall enforce the surrender of the land.

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

VIII. The local Government, if it thinks fit, may empower any such officer to execute any award made under the said Regulation, and to do all things necessary for completing the business of taking and paying for the said land, and for settling all disputes concerning it, without sending any report to the local Government.

IX. In every case in which any land has been or shall be taken by the Government for any public work, otherwise than according to the said Regulation, such land after the lapse of five years, without any claim preferred for the recovery thereof in any competent Court, or under the said Regulation I. 1824, or

this Act, shall vest absolutely in the East India Company, freed and discharged from all other claims thereunto.

X. The said term of five years shall be reckoned from the date of this Act, in the case of land heretofore taken, and in the case of land hereafter taken from the time of taking possession thereof.

XI. If within the said term of five years any suit is begun upon which final judgment shall be obtained establishing the right of the plaintiff to any interest in any such land, then, instead of the said land, there shall be paid to the person obtaining such judgment the value of his interest in the said land, at the time when possession thereof was taken, with interest thereon at the usual and lawful rate, to be ascertained and settled in case of dispute by arbitration in the manner described for disputed claims by the said Regulation.