

ACT No. XX. OF 1852.

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*Passed by the Governor General of India in Council, on  
the 27th March 1852.*

*An Act to facilitate the Acquisition of Land needed for Public  
Purposes in the Presidency of Fort St. George.*

I. **WHENEVER** it shall appear to the Governor of Fort St. George in Council that any land is needed for a public purpose, he shall make a declaration to that effect in a Minute of Council, and such declaration shall be conclusive evidence that the purpose for which the land is needed is a public purpose.

II. When a declaration has been made by the Governor in Council that any land is needed for a public purpose, if there shall be any hindrance to the immediate acquisition of such land by purchase from the parties interested therein, it shall be competent to the Governor in Council to order the land to be taken possession of on the part of Government, and applied to the purpose for which it is needed, leaving claims for compensation for the land to be determined as hereinafter provided.

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III. When

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III. When such order is passed by the Governor in Council it shall be sent to the Collector of the District in which the land lies, or to such other Officer as the Governor in Council shall think fit to appoint to carry it into execution ; and the Collector, or other Officer so appointed, shall cause the land ordered to be taken to be marked out and measured, and possession to be taken thereof on behalf of Government, and the land shall thenceforward be vested absolutely in the Government, free and clear of all other estates, rights, titles, remainders, reversions, limitations, trusts and interests, and also of all mortgages, liens, or incumbrances whatsoever, of and in the land so taken as aforesaid ; and any suit which may be instituted to recover the land so taken by Government, in any Court of Judicature, shall be dismissed with costs. Provided always, that nothing herein contained shall affect the liability of the party who may receive the value of any land so taken by Government, without having a good title to the same.

IV. As soon as the land has been marked out, the Collector, or other Officer appointed as aforesaid, shall cause the order in Council to be affixed in some conspicuous place upon the land, and published by proclamation in the neighbouring bazars and villages, with a citation, calling on all parties interested in the land to appear before him in person, or by authorized agents, on a certain day, not less than fifteen days after the date of citation, and to state the nature of their interests in the land required, and the amount and particulars of their claims to compensation for the same.

V. It shall be competent to the said Collector, or other Officer appointed as aforesaid, to admit any such claims that appear to him to be valid, and if he and all the parties interested in the land agree as to the compensation to be allowed to them respectively, to pass an award for the same.

VI. If

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VI. If the said Collector or Officer shall judge any of the claims preferred to be inadmissible, and the parties interested in the land or any of them shall nevertheless persist in such claims, or if the said Collector or Officer, admitting the interests claimed, shall object to the compensation demanded for the same as excessive, the points in dispute shall be referred to the determination of arbitrators, to be appointed in the manner hereinafter provided.

VII. Two persons shall be chosen to act as arbitrators on the part of Government, by the Collector or other Officer duly appointed as aforesaid, and the party or parties claiming to be interested in the land taken shall be called upon by the said Collector or Officer to elect, within fifteen days, two persons to act as arbitrators on his or their part. If there be several parties interested as aforesaid, and they cannot agree within the required period in the election of persons to act as arbitrators on their behalf, then and in that case, each of them shall nominate one person, whom he may desire to act on his behalf, and the said Collector or Officer shall choose by lot, out of the persons so nominated by the parties aforesaid, or by any of them, two persons to act as arbitrators on behalf of the parties interested in the land. If only two persons shall be so nominated by the parties interested in the land, they shall be the arbitrators on behalf of such parties, whether the whole of the parties interested as aforesaid may or may not have been concerned in their nomination. If only one person shall be so nominated, then only one of the persons selected to act as arbitrators on the part of Government shall be employed on the duty. If the parties interested in the land shall refuse or neglect, or if by reason of minority, lunacy or absence from the Presidency, they shall be unable to make any nomination within the required period, then the said Collector or Officer shall and may select two impartial persons to arbitrate the matter between Government and the parties interested in the land.

VIII. Before

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VIII. Before the arbitrators proceed to arbitrate, they shall be required by the said Collector or Officer to appoint an umpire for the decision of any points whereon they may differ in opinion, when the voices on each side shall be equal. If the arbitrators cannot agree in the selection of an umpire, the said Collector or Officer shall be authorized to choose some person to act as such.

IX. In cases wherein the arbitrators may differ in opinion, if the voices on each side shall be equal, the decision of the umpire on the point of difference shall be conclusive: in all other cases, the opinion of the majority of arbitrators shall determine the award.

X. The arbitrators shall hold their inquiry under the general superintendence of the Collector or other Officer appointed as aforesaid, who shall be competent to exercise towards them such powers and authority, for the purpose of securing their attendance, and the due completion of their award, as the Courts of Judicature may legally exercise towards persons summoned as witnesses before them, for the purpose of compelling such witnesses to attend and give evidence. It shall further be competent to the Officer presiding, in the event of any unnecessary delay on the part of arbitrators in determining any question referred to them, to call upon them to make their award within a specified time, and in default thereof, to refer such question to the umpire for his decision.

XI. The said Collector, or other Officer appointed as aforesaid, shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process. He shall also cause the proper forms of affirmation to be executed by any witnesses whom the arbitrators may desire to examine upon affirmation, or he may empower the

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the arbitrators to administer or cause the execution of such affirmation, if the witnesses cannot with convenience attend before him. Any witness who shall refuse or omit to appear when duly summoned by such Collector or Officer, or who shall appear but shall refuse to execute the affirmation to be administered as aforesaid, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the Law by a witness refusing to appear or give evidence before a Court of Justice. Any person giving intentionally and deliberately a false deposition, under a solemn affirmation in any case referred to arbitration as above, and upon a point material to the issue thereof, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by Law; and any person causing or procuring another person to commit the offence of perjury, as above described, shall be guilty of subornation of perjury, and punishable according to Law.

XII. It shall also be competent to the Collector, or other Officer appointed as aforesaid, to demand from the parties interested in the land so taken as aforesaid, the production of any accounts, title-deeds, or other documents which may be required by the arbitrators for the purposes of their inquiry, and in the event of such accounts, title-deeds, or documents being withheld, and the fact of their existence being proved by information given upon solemn affirmation, to order the seizure of such accounts, title-deeds, and documents wherever they may have been deposited, in the manner prescribed by Section IX. Regulation IX. of 1822 of the Madras Code, and to exercise for that purpose the powers thereby vested in Collectors.

XIII. The arbitrators shall take into consideration the statements of the parties interested in the said land, and the objections of the Collector or other Officer aforesaid on behalf of Government, and after examining the evidence offered on both sides, and making any further  
b inquiry

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inquiry that may appear to them necessary, shall pass their award allowing or disallowing the interests claimed, and determining the total amount of compensation to be given for the interests allowed, the mode in which it is to be given, and, if to be given to more than one party, the shares of the total compensation which each party shall be entitled to receive.

XIV. The award of the arbitrators, or of the umpire if he shall be called upon to make an award, shall be binding and conclusive both upon the Government and the parties interested in the land, as respects the gross amount of the compensation to be paid by Government, unless the award shall be set aside by the Civil Court of the zillah upon a charge of corruption against the arbitrators or the umpire, as the case may be, brought by either party, and proved after due investigation, to the satisfaction of such Court; in which case the matter shall be referred for the determination of a second set of arbitrators, to be chosen in the same manner as the first, and their decision, whatever it may be, shall be final. No petition to set aside an award made under this Act shall be received by the Civil Court of the zillah, unless it be presented within thirty days from the date of the award complained of; and the said petition shall be presented on stamped paper of the value used for miscellaneous petitions, and shall be accompanied with a copy of the award objected to. The award of the arbitrators or umpire shall also be binding as respects the shares to be paid to the several parties interested in the land, unless upon a suit instituted within thirty days from the date of the award, in a competent Court, by any of the parties concerned, to alter the apportionment made by such award, an injunction shall be issued to suspend the payment until a decree is passed in the case.

XV. If any question arises as to the previous possession of or title to any land taken by Government under this Act, or if the parties or any

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any of them interested in the land are minors, lunatics, or absent as aforesaid, and are not represented by their guardian, committee, attorney, or other person authorized in that behalf, or if there exist other grounds which, in the judgment of the arbitrators, render it improper to make immediate payment of the compensation awarded by them, or of any part thereof, to any of the parties interested in such land, the said arbitrators shall certify the same to the said Collector or Officer, under whose directions they may act, and in such case, or if for any such reason or any such ground as aforesaid, the said Collector or other Officer shall deem immediate payment improper, then the amount of compensation payable shall be held in deposit by Government, until the parties interested in the said land or some of them shall obtain an order of a competent Court for the payment of the same and interest (if any) to them. All sums held in deposit as aforesaid, exceeding in amount the sum of Five Hundred Rupees, shall be invested in Government Securities.

XVI. On the close of the inquiry, the arbitrators or umpire shall deliver to the Collector, or other Officer appointed as aforesaid, a full and complete report and award upon the questions submitted to their arbitration, under their respective signatures, specifying the amount of compensation to be granted, and, (except where under Section XV. it may appear proper to suspend payment,) the parties to whom it is to be made, and the proportions to be paid to each respectively, with a solemn declaration subscribed thereto, that the award so given is to the best of their judgment true and impartial, and according to the evidence adduced before them, and they shall at the same time deposit with the said Collector or Officer the whole of their proceedings.

XVII. All suits and proceedings instituted against Government to obtain compensation for land taken as aforesaid, other than such petitions to set aside awards as aforesaid, shall be dismissed with costs, but nothing herein

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herein contained shall affect the rights of any party to recover the value of any land taken by Government from any person who may have received the same without having any title thereto.

XVIII. In the case of land declared by a Minute of the Governor in Council to be needed for a public purpose being acquired by the Government by bargain with and purchase from the parties apparently interested therein, the Collector, or Officer appointed by Government to receive possession of the same, shall cause proclamation to be made in the manner prescribed in the fourth Section of this Act, of the transfer of the land to Government by the said parties, and requiring all other persons who may claim any right, title, or interest in such land, to prefer their claims within one calendar month after such proclamation made; and any claims that may be preferred shall be dealt with under Section V. or under Section VI. and the following Sections of this Act. Provided always, that if no claim shall be made within one calendar month after such proclamation as aforesaid, the said land shall vest absolutely in the Government, free and clear of all other estates, rights, titles, remainders, reversions, limitations, trusts, interests, mortgages, liens or incumbrances whatsoever, of and in the said land so purchased; and any suit to recover the land so purchased by Government, or to obtain from Government compensation for the loss thereof, which may be preferred in any Court of Judicature, shall be dismissed with costs. But nothing herein contained shall affect the liability of the party who may receive the value of any land purchased by Government without having a good title to the same.

XIX. In cases referred to arbitration, under the provisions of this Act, any necessary expense which may attend the inquiry of the arbitration, whether for the diet of witnesses or otherwise, shall be paid by Government.

XX. The



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XX. The provisions of Act XLII. of 1850 shall be applicable and in force within the Madras Presidency; and the said Act shall be construed as if instead of the words and figures "Regulation I. of 1824 of the Bengal Code," or "the said Regulation" therein mentioned, the number and title of this Act had been therein inserted.

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

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

Words importing the masculine gender only shall include females.

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

The expression "party or parties interested in the land" shall be understood to mean all parties interested in the land either for life or for years, or in remainder, reversion, or succession, and all trustees, *cestui que* trusts, mortgagees, incumbrancers, leaseholders, or tenants, not being tenants by the month or at will of such land.

