

# WORKS OF UTILITY BY PRIVATE PERSONS & COMPANIES ACT.

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PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th March 1863.)

*An Act to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken.*

WHEREAS it is expedient to enable the Government to take land for the construction of works of public utility by private persons or Companies; and whereas it is proper, at the same time, to protect the rights of all persons from whom land shall be so taken, or be proposed to be taken; and also to determine the manner in which such works may be undertaken, and shall be managed after their construction; as well as to secure to the public, under suitable regulations, the use of works constructed on land so taken; It is enacted as follows:—

AS TO THE CONSTRUCTION OF THE ACT.

I. The following words and expressions shall have the several meanings hereby assigned to them, unless when a contrary intention appears from the context.

Number.

Words in the singular number shall include the plural, and words in the plural shall include the singular.

Gender,

Words importing the masculine gender shall include females

“The Work.”

The words “the Work” shall signify the public work proposed to be undertaken.

The

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The words "Local Government" shall mean the head of the Executive Administration of the Province in which the public work is proposed to be constructed.

The words "the Collector" shall include any officer exercising, by authority of Government, the duties of a Collector of Land Revenue, by whatever name his office may be designated.

The words "the Promoters" shall mean the person or persons who propose to construct the work, or are empowered to construct it, whether a single person or a Company.

The words "Work under this Act" shall imply a work definitively registered as hereinafter provided by this Act.

The words "the Owners" or "the Company" shall signify the parties in charge of any public work under this Act, or referred to in this Act, whether as promoters, proprietors, lessees, agents, assignees, or otherwise, and whether a single person or a Company.

The word "Lands" shall include messuages, lands, tenements, and hereditaments, of any tenure.

The word "Conditions" shall signify the special conditions of agreement between the promoters or owners of a work under this Act and the Government, referred to in Section XV of this Act.

The word "Toll" shall include any rate, or charge, or other payment, to be made for any use of a work under this Act, or for any service performed in connection with the use of any such work.

II. A work of public utility within this Act shall be held to mean any bridge, road, railroad, tramroad, canal for irrigation or navigation, work for the improvement of a river or harbour, dock, quay, jetty, drainage work, or electric telegraph; also all works subsidiary to any such work. It shall be lawful for the Governor-General in Council, from time to time, by a declaration to be made to that effect, and published in the Official Gazette, to order that any other class of works, or any particular work other than those named above, shall be included among works of public utility within this Act.

III. It

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III. It shall be lawful for the Governor-General of India in Council, to vest the principal Executive Officer of any territory under the immediate administration of the Governor-General in Council, with any or all of the powers vested by this Act in the Local Government of such territory.

Governor-General may vest certain Officers with powers conferred by this Act on Local Government.

AS TO THE PRELIMINARY PROCEEDINGS TO BE TAKEN, AND THE REGISTRATION OF WORKS.

IV. The promoters of any work of public utility, who shall desire to proceed under this Act, shall make a preliminary application in writing to the Local Government, explaining the general object and nature of the work, and its intended locality. Every such application shall further be accompanied by a statement of the estimated cost of the construction of the said work, and the mode in which the promoters propose to provide the funds for constructing, maintaining, and working, the same.

Promoters to make preliminary application, accompanied by statement.

V. If the Local Government shall not be satisfied with any such application, or statement, it may reject it ; or it may call on the promoters to supply any further information, or to amend such application, or statement, on any point on which such further information or amendment shall to the Local Government seem requisite.

Local Government may reject application, or call for further information, &c.

VI. If the promoters shall desire to undertake any preliminary survey on account of the proposed work, before preparing and submitting the statement aforesaid, they shall declare the same in their preliminary application ; and it shall be lawful for the Local Government, if satisfied of the expediency of permitting such survey, to issue a certificate authorizing the same. Such certificate shall declare the names of the promoters entitled to use it ; the time for which it shall be in force, and the District or Districts or locality for which it shall be valid ; and shall contain such further regulations, for the guidance of the persons using the said certificate, as to the Local Government shall seem fit. The promoters named in such certificate, and such other persons as the promoters shall name, in a list to be furnished to the Chief Officer charged with the Executive

Issue of certificate authorizing preliminary survey.

Terms of certificate.

Authority conveyed thereby.

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Executive Administration of each District in which the proposed work is to be constructed, shall be authorized to enter upon any lands, in the manner and for the time declared in such certificate, to undertake any survey or other investigation necessary for the proper prosecution of the proposed work; and while acting under the authority given in the said certificate, such promoters and other persons aforesaid shall be deemed to be public servants, whose duty it is to make a survey under Clause 10 of Section 21 of the Indian Penal Code. Pro-

Proviso limiting authority.

vided that such promoters and other persons shall not be authorized to enter any house, or building, or the curtilage of any house, or enclosed garden, without the assent of the occupier; or to cut down any tree, or otherwise injure or destroy any property. Provided

Liability for offences.

also that such promoters and other persons aforesaid shall, while acting under the authority of such certificate, be liable as public servants, for any offence described in Chapter IX of the said Indian Penal Code, to the penalty provided in the said Chapter for such offence.

VII. It shall be lawful for the Local Government, before issuing a certificate as aforesaid, to call on the promoters to deposit, as

Deposit of caution money may be required before issue of certificate.

caution money, such sum, and in such manner, as the Local Government shall in each case determine; to be

applied by the Local Government to make good any damage done in the course of such survey, by the promoters or other persons using the said certificate.

Refund of surplus.

The promoters shall be entitled, on their demand, to receive back, after the expiry of such certificate, and after the payment of any claim for damage which shall have been proved to the satisfaction of the Local Government, any surplus remaining in the hands of such Government.

VIII. It shall be lawful for the Local Government, at any time prior to the provisional registration of a public work under this Act as hereinafter provided, to cancel a certificate granted under Section VI of this Act, if it shall appear to such Local Government that the powers granted by such certificate have been abused, or for any other sufficient reason.

Cancelment of certificate.

IX. The



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IX. The promoters shall, at the time when they submit their preliminary application to the Local Government, publish the same, and if they so desire, the statement that accompanies it, in the Official Gazette, and also, if possible, in at least two Newspapers (one of which shall be in English) in the Province in which the work is proposed to be executed ; and shall repeat such publication, at least six times, within a period of two months from the date of submission of such application to the Local Government : the promoters shall further cause to be delivered, with all reasonable despatch, and within a period not exceeding two months, to the Collector of every District in which any part of such work is proposed to be constructed, or such other Officer as the Local Government shall from time to time direct, six copies of such application, with a faithful translation of the same into the vernacular language of the District ; and shall in like manner publish from time to time and deliver as aforesaid, copies and translations of any amended applications submitted to the Local Government.

Publication of preliminary application, &c., by promoters, and supply of copies to Collectors, &c.

Amended applications.

X. The Collector or other Officer as aforesaid shall, on receipt of the preliminary application, publish the same in English, and in the Vernacular language of the District, in the localities where the work is proposed to be constructed, in such manner as to him seems best.

Publication by Collector.

XI. At any time not sooner than four months after the receipt of the said application, or if the application be amended, then within four months after the receipt of such amended application, the Local Government, on being satisfied by the promoters that the above conditions have been complied with, shall be authorized to consider finally such application, and any objections that shall have been raised against the construction of the proposed work ; and to declare whether the said work may be provisionally registered under this Act or not.

Local Government to decide, after stated interval, whether work may be provisionally registered or not.

XII. Before declaring that any work may be provisionally registered under this Act, being a Railway, or tramway, in continuation of or forming a branch of any existing line ; or being a line that might reasonably be expected to be united with any existing Railway, either as a continuation, or a branch ;

And before deciding, in case of continuation or branch Railway, or tramway, to allow time for opposition, &c.

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branch ; and at the same time being at some one point within fifty miles distance of such existing Railway, the Local Government shall afford, to the owners of such existing line, reasonable time and opportunity to declare whether they offer any opposition to the registration of the proposed line ; and on a full consideration of such opposition, and of the application of the promoters, and of any objections aforesaid, and of the relative public advantages of all proposals made in the matter, the Local Government shall be authorized to declare its decision on the said application.

XIII. Previously to deciding that the said work shall be provisionally registered under this Act, it shall be lawful for the Local Government, if it shall think fit, to appoint a Commission of one or more persons, who may be Government Officers, to enquire into the general object and nature of the said work ; its intended locality, and probable utility ; its estimated cost ; the grounds of any opposition to the said work ; and any other matter connected with the said work, on which such Local Government shall desire to be satisfied. For the purposes of such enquiry, such Commission shall have power to take evidence ; and for obtaining the attendance, and for the examination, of witnesses, may exercise the powers of a Civil Court under the Code of Civil Procedure.

And may also appoint a commission to enquire into particulars.

Powers of Commission.

XIV. On the receipt of the Report of the Commission appointed under the last preceding Section, the Local Government shall decide if the said work shall be provisionally registered.

On report of Commission, Local Government to decide as to registry.

XV. Before declaring its decision as aforesaid, the Local Government shall, subject to such general or special instructions as the Governor-General of India in Council shall, from time to time, lay down, prescribe the conditions which such Local Government shall consider it necessary to impose on the promoters, having regard to the special circumstances of each case, in respect to the provision and payment of the price of the land for the proposed work ; the construction, maintenance, or working of the same ; the regulation of the use of the work, as regards the security and convenience of the public ; and such other matters as to the Local Government may from time to time seem right

And to prescribe conditions to be imposed on promoters, before declaring decision.

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right ; and the Local Government shall inform the promoters of such conditions.

XVI. The Local Government, on causing a work to be provisionally registered under this Act, shall determine for what period, being not less than six months, such registry shall be in force. And at any time, within such period, the promoters may claim to have the registry made definitive as hereinafter provided.

Duration of provisional registry, and right to have it made definitive.

XVII. Unless for any cause the Local Government shall otherwise determine, the promoters, before they are entitled to claim the definitive registry of the proposed work, shall deposit with the Government in such manner as shall be approved by the Local Government, a sum to be fixed in each case by the Local Government, but not exceeding ten per cent. on the whole estimated cost of the said work, as caution money ; to be disposed of in the manner agreed in the said conditions, unless it be otherwise dealt with as hereinafter provided. And any sum remaining in the hands of the Local Government, from any caution money lodged under Section VII of this Act, shall be held to be a payment in part of the caution money required under this Section.

Promoters to deposit caution money before definitive registry.

XVIII. The promoters, before such claim for definitive registry shall be admitted, shall further complete an agreement with the Secretary of State for India in Council, through the Government, under the conditions aforesaid, or under such other conditions as may be agreed between the said promoters and the Local Government. And thereupon the Local Government shall cause such agreement, with the conditions thereof, to be published in the Official Gazette ; and shall declare that the work is definitively registered as a public work under this Act.

Also to complete agreement, under conditions.

Publication of agreement, and declaration of registry.

XIX. It shall be lawful for the Local Government, on the application of the promoters of any public work under this Act, to cause to be definitively registered under this Act, any public work undertaken by such promoters, under an agreement entered into previously to the passing of this Act with the Secretary of State, or the Government of India, or any Local Government, as though

Definitive registry of work, undertaken under agreement entered into before passing of Act.

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though such work had been proposed to be undertaken under the provisions of this Act hereinbefore contained. Provided that, at  
Proviso. the time of so registering any work, the Local Government shall cause the said contract to be published in the Official Gazette, with all the conditions attaching thereto ; and declare that the said work has been so registered definitively.

XX. It shall be lawful for the Local Government to apply any land in its  
Local Government may apply land, &c., for purposes of public work under Act. lawful possession, also any public road or place, for the purposes of any public work under this Act, to be constructed at the expense and risk of the promoters of such work. Provided that every such work shall be definitively registered accordingly, and that the conditions under which such work  
Proviso. is undertaken shall be published in the Official Gazette ; also that the prosecution and construction of every such work shall be subject to the provisions of Section XII of this Act.

XXI. The Local Government may, from time to time, with the assent of  
Local Government may with consent, vary conditions. the owners of any work under this Act, vary the conditions to be agreed to under Section XV of this Act. Provid-  
Proviso. ed that such variation shall forthwith be published in the Official Gazette ; and that, after such publication, the amended conditions shall be in force in supersession of those first made.

XXII. After the definitive registry of any work under this Act, it shall  
After definitive registry, Local Government may issue certificate, authorizing surveys, &c. be lawful for the local Government, from time to time, in such wise as to it shall appear fit, to issue certificates to authorize the promoters, their servants, and agents, to enter upon any lands, and to undertake such surveys or levels, or other examinations, as may be necessary for the proper prosecution of the said work ; also to dig and bore into the sub-soil, and to indicate the intended boundaries of the land to be taken, and the positions of the proposed works, by suitable landmarks ; and to perform all other necessary preliminary acts of the like nature :  
Terms of Certificate. and such certificates shall declare the names of the persons entitled to use them, the time for which they shall be in force, and the Districts or locality for which they shall be valid ; and shall  
contain

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contain such further regulations, for the guidance of the persons using them, as to the Local Government shall seem fit. And while acting under the authority given in the said certificate, such persons shall be deemed to be public servants, whose duty it is to make a survey under Clause 10 of Section 21 of the Indian Penal Code. Provided, however, that such persons shall not enter

Proviso limiting authority.

any house, or building, or the curtilage of any house, or enclosed garden, without giving twenty-four hours' notice, or without the assent of the occupier thereof; nor shall they cut down any tree, or otherwise injure or destroy any property, unless the same be essentially necessary.

Liability for offences.

Provided also, that such persons, while acting under the authority of such certificate, shall be liable as public servants, for any offence described in Chapter IX of the said Indian Penal Code, to the penalty provided in the said Chapter for such offence.

XXIII. The promoters shall, on the completion of the necessary surveys

On completion of surveys, &c., promoters to submit drawings, &c.

and the like, submit to the Local Government such drawings, maps, and plans, of the proposed work, as well as of the land required for it, as the Local Government shall in each case require. And thereupon the Local Government shall appoint

Appointment of Commissioners to examine same, and settle details.

one or more Commissioners, who may be Government Officers, to examine the said drawings, maps, and plans, and to determine finally, in concert with the promoters or their agents, all matters of detail in respect of the exact position of the work, or of the parts thereof, as well as the boundaries of the land to be taken for the said work; and shall notify such appointment in the Official Gazette; and shall cause such Notification to be published in the District where the work is proposed to be undertaken, in such manner as shall seem best to the Local Government.

XXIV. The Commissioners appointed under the last preceding Section

Commissioners how to proceed.

shall proceed at any time, but not sooner than thirty days after such Notification, to settle, in concert with the promoters or their agents, the exact position of the work, or of the parts thereof; and thereafter, with all practicable despatch, to examine the boundaries of the land proposed to be taken for the work; and the said Commissioners

May call for variation of project, &c.

may call upon the promoters to make any variation in their project and in the position of the works, or any part of them,

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them, and in the boundaries of the land proposed to be taken, that may to the said Commissioners seem necessary, to secure the safety or convenience of the public, or to prevent any undue interference with private property, or for any other reasonable cause ; and any such variation, if agreed to by the promoters, shall thereon be considered to be finally adopted: but if the promoters shall not agree, the question in dispute shall be submitted to the Local Government, and the decision of the Local Government shall be final; provided that the promoters shall not be bound to carry out the proposed work, if any variation be insisted upon by the Local Government, to which the promoters will not assent.

Provision for case of promoters not agreeing thereto.

XXV. The Local Government shall be authorized to extend the periods allowed for giving any notices, or for performing any acts, required under the foregoing Sections, as from time to time may seem to it proper.

Extension of periods allowed for notices, &c.

AS TO THE TAKING LANDS, THE TITLE THEREIN, AND THE PAYMENT THEREFOR.

XXVI. When the boundaries of the land required for the work shall have been settled as aforesaid, and the promoters shall have caused the said land to be measured, and suitable land-plans to be prepared of the same, the Local Government shall cause a declaration to be made, under the signature of a Secretary to such Government, or some Officer duly authorized to certify the orders of the Local Government, that the land aforesaid is required for the said work; and such declaration shall be conclusive that the land may be taken under this Act. After making such declaration, the Local Government may proceed to take any such land, as though it had been required to be taken at the public expense, and for a public purpose; and as though a declaration had been made as required under Act VI of 1857 (*for the acquisition of land for public purposes*).

On settlement of boundaries, &c., Local Government to issue declaration as to land being required.

And may thereafter proceed to take the same.

XXVII. The boundaries, as determined by the Commissioners, and the plans and measurements aforesaid, of the said land, when verified and found to be correct, or when duly corrected by the Collector, or other Officer, appointed to proceed under the said Act VI of

Rule as to boundaries, plans, and measurements.

of

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of 1857, shall be held to be the boundaries, plans, and measurements, required under Section IV of the said Act, so far as the said lands are concerned.

XXVIII. If at any time land shall be required for any necessary or reasonable extension of, or addition to, any work under this Act, it shall be lawful for the Local Government to make all requisite declarations for the purpose of obtaining such land under this Act, after such and only such of the preliminary proceedings and enquiries, hereinbefore required, as to the Local Government shall in each case seem sufficient for the protection of the rights of the public, and of individuals concerned. Provided that nothing shall be done contrary to the provisions of Section XII of this Act; and that all proceedings for the actual taking possession of the land shall be conducted in accordance with the provisions of the said Act VI of 1857.

Preliminary proceedings and declaration by Local Government, as to land required for extension of, or addition to, work under Act.

Proviso.

Taking land for temporary purpose.

XXIX. Land may be taken under this Act for a temporary purpose, in like manner as under the said Act VI of 1857.

XXX. All land taken under this Act shall vest absolutely in the Local Government, as though it had been taken for a public purpose under the said Act VI of 1857; and it shall be lawful for the Local Government to dispose of any land taken under this Act, the whole or any part of which shall not be required for the purpose for which it was taken, in any manner that it may think fit. The Local Government alone shall be responsible for the payment of all claims on account of such land, to all persons whatever; and the promoters shall in no wise be responsible for any such payment, otherwise than to the Local Government; and then only as is herein declared and provided, and as shall be specially agreed in the conditions aforesaid.

Right, powers, and responsibilities of Local Government, as to land taken under Act.

XXXI. When all the conditions as aforesaid, applicable to the transfer of the land to the promoters, shall have been fully complied with, and not till then, the Government shall cause the promoters to be placed in possession of such land, in accordance with such conditions. The title of the Local Government,

Promoters when to be placed in possession of land.

or

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or of the promoters, to such land, shall not be liable to be questioned on account of any informality in any proceeding taken under this Act.

XXXII. All expenses attending the proceedings of the Commissioners to be appointed under Section XXIII of this Act, and all expenses incurred by the Local Government in taking up the land required for the promoters under the said Act VI of 1857, shall be paid by the said promoters, unless otherwise specially agreed. The Local Government shall determine the sum due on account of such expenses, and shall be authorized to deduct such amount from any sum lodged as caution money as aforesaid, if it be not otherwise paid by the promoters; and any sum remaining unpaid, both as aforesaid, and on account of land or compensation, for which the promoters are liable under the said conditions, may, on the order of the Local Government to that effect, be levied by distress and sale on the said promoters, in the manner provided for distress and sale under Civil process.

XXXIII. The promoters shall further be liable for all damage done in any of their preliminary operations, and shall duly satisfy and pay all claims of this description; and if, at the time of taking possession of the land required for the promoters, it shall appear that any such claim remains unsatisfied, the Collector or other Officer, acting under the said Act VI of 1857 in respect of such land, shall be authorized to determine all such claims summarily, as though they had been claims arising under the said Act; and all payments on account of such claims shall be made good by the promoters as under the last preceding Section.

AS TO THE PUBLIC USE OF WORKS.

XXXIV. Every work under this Act shall be available for the use of the public in accordance with, and to the extent provided by, the conditions aforesaid, or any Act at the time being in force, but not otherwise; and after the publication of the conditions relating to any such works, in the Official Gazette, all Courts may take judicial notice of the same; and it shall be lawful for any person whatsoever to sue the owners of such work, for any damage he may incur by reason of any neglect of the said conditions, by the said owners, in respect



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respect of any such public use of such work, as though such person had been party to the said conditions.

**XXXV.** The owners of any work under this Act shall be authorized to levy such tolls, in such manner, as shall be fixed in accordance with the conditions aforesaid; also to refuse the use of such work, and to refuse to perform any service in connection therewith, unless such tolls shall be paid in the manner fixed aforesaid; as well as to detain any thing or animal on which such tolls shall be due, and to sell the same, if the said tolls shall remain unpaid after a reasonable time has been allowed to elapse for the payment of the same. Provided that no such tolls shall be demanded or taken at any place, unless proper tables and lists of such tolls be exhibited at such place, in the manner fixed as aforesaid.

Powers of owners as to tolls for use of their works.

Proviso.

AS TO THE CONSTRUCTION OF THE WORKS, AND THE INSPECTION OF THE SAME.

**XXXVI.** The Local Government may appoint Inspectors to inspect any work under this Act, also all things appertaining thereto, and to the working of the same; but not books or documents otherwise than as shall be provided in the conditions aforesaid. The owners of such work, and all persons authorized by them to use the same in connection with any public use of the said work, and their servants and agents, shall be bound to afford to such Inspectors all reasonable facility for their inspection, and all such information as may be reasonably required by them.

Inspection of works.

**XXXVII.** If it appear to the Local Government, upon the report of any Inspector, that the use of any work under this Act cannot be continued without danger to the public, or to the persons employed thereon; or that rules, adequate to the protection of the public under the provisions of this Act, have not been framed and put in force; or that the conditions agreed upon under Section XV of this Act have not been carried out, the Local Government may order that all defects shall be made good within a reasonable specified time; and in default of the owners of such work complying with such order, within such time, or such further time as the Local Government shall appoint, the Local Government shall be empowered to direct that the use of such work shall be

If report of Inspector show cause, Local Government may order use of work to be suspended until defects are remedied.

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be suspended, until the defects aforesaid shall be remedied to the satisfaction of the Local Government.

XXXVIII. The Local Government may, at any time, on the report of an Inspector during the construction of any work under this Act, direct the promoters to construct, in connection therewith, such culverts, bridges, tunnels, drains, or other works, as may be considered by the Local Government to be necessary, to continue to the public any roads, or rights of way, or easements, or the use of any water theretofore available; and to make due provision for the irrigation and drainage of the country, so as to prevent the same from being impeded, or unnecessarily altered, by the construction of the said work. If default be made in complying with any directions given under the provisions of this Section, the Local Government may order the prosecution of the work to be stopped, until such directions shall be complied with to the satisfaction of the Local Government.

Local Government may direct construction of subsidiary works.

And in default of compliance, may stop work.

XXXIX. Nothing in the last preceding Section shall be construed to render the promoters liable to construct any work, or to undertake anything, at variance with the special conditions of agreement under Section XV of this Act.

Saving as to matters at variance with special conditions.

XL. The owners of every Railway under this Act, being of the gauge of five feet six inches, shall be bound, unless specially exempted by the Governor-General of India in Council, to erect all the fixed structures, and to construct all the rolling stock, in conformity with the standard dimensions determined in that behalf from time to time by the Governor-General of India in Council; and it shall be lawful for the Local Government to order the said owners to make good all defects in such structures, or rolling stock, and to suspend their use until such defects shall be made good to the satisfaction of the Local Government.

Fixed structures, &c., on Railway of certain gauge, to be of standard dimensions.

XLI. The provisions of Act XVIII of 1854 (*relating to Railways in India*), shall apply to all Railways, under this Act; provided that, in respect of such Railways the Local Government shall be authorized to determine, from time to time, the extent to which fences shall be constructed under Section

Act XVIII of 1854 applicable to Railways under this Act.

Proviso as to fences.

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tion XX of the said Act XVIII of 1854, and that the owners of such Railways shall not be liable to maintain fences, under the said Section, otherwise than as shall be so determined.

XLII. In case any doubt shall at any time arise, as to the necessity for constructing or altering any work, to ensure the safety of the public, or to provide for established public rights of way or other public rights of any sort, in connection with any work under this Act, the decision of the Local Government on such subject shall be final, and shall not be liable to be called in question in any Court of Justice.

XLIII. If the owners of a Railway under this Act shall desire to form a connection with any existing Railway of the same gauge, the owners of the new line shall be authorized to call on the owners of the old line to effect the junction; and if the owners of the old line shall not proceed to effect the junction within a reasonable time, the Local Government, on being satisfied that the junction may be made with safety to the public, and without injury to the existing Railway, or detriment to the traffic thereon, may authorize the owners of the proposed line to form the junction, and to do all necessary acts in that behalf, and to lay down such additional lines of rails, points, and crossings, as may be necessary for the purpose, at such time and in such manner as the Local Government shall direct. Provided that, if the junction be effected by the owners of the previously existing Railway, the expense of forming the junction, of supplying all necessary works, and of keeping in repair and renewing the same, shall be paid by the owners of the new line.

XLIV. If any difference shall arise, as to the terms on which the traffic of a branch or junction line of Railway under this Act shall pass over, or upon, any other line with which it shall be connected; or as to the manner and times of conducting the traffic, or of regulating the same, over the two lines, or either of them; or as to any matter touching any line under this Act, used in common by two or more Companies, the Local Government shall be authorized, on the application of either or any one of the said Companies, to hear and determine

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determine all such differences ; and any order given by the Local Government in such a case shall be final and binding on all parties. Provided that no order shall be so given at variance with any condition of any agreement, between the Government and any of the said Companies, that shall be applicable to the said lines of Railway.

Proviso.

AS TO THE MAKING OF BYE-LAWS.

XLV. It shall be lawful for the owners of any work under this Act, to make Bye-Laws and Regulations for the guidance of their servants and agents, and of persons employed by them, and for the maintenance of order in the use of such work; and to provide for the safety and convenience of the public or of the persons employed on such work ; and all such Bye-Laws and Regulations shall be subject to the approval of the Local Government ; and when so approved all Courts and Magistrates shall take judicial notice of the same ; and the Local Government shall be authorized to cause any alterations to be made in the Bye-Laws and Regulations, so made and approved, as to the Local Government shall from time to time seem proper. Provided that such Bye-Laws and Regulations be not repugnant to any Law in force in the British Territories in India; and that no penalty shall be attached to the infringement of any such Bye-Law or Regulation, exceeding a fine of fifty Rupees.

Power of owners to make Bye-Laws and Regulations.

Subject to approval and alteration.

Proviso.

XLVI. Such Bye-Laws and Regulations affecting the public shall be published, and the substance of them shall be notified, in such places on the said work, and in such manner, as the Local Government shall from time to time approve or direct; and no penalty shall be recoverable under such Bye-Laws or Regulations, unless the same shall have been published and kept published as aforesaid.

Publication of Bye-Laws, and notification of substance of same.

XLVII. In the case of a Railway under this Act, being of the gauge of five feet and six inches, it is further provided that the Bye-Laws and Regulations shall, unless the Governor-General of India in Council shall otherwise permit, conform in every respect to the Regulations for Railway Companies under the said Act XVIII of 1854.

Provision as to Bye-Laws in the case of a Railway under Act, of 5½ feet gauge.

XLVIII. No

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AS TO THE LIEN OF THE GOVERNMENT ON ANY WORK.

XLVIII. No lands taken or supplied by Government for any work under this Act; no tree, building, or structure standing on such lands; no machinery nor permanent way fixed to the soil on such lands; nor anything whatsoever on which the Local Government shall be entitled to re-enter, or of which it shall be entitled to take possession, without payment, on the determination from any cause, of the agreement between the Local Government and the promoters, under the conditions aforesaid, shall, without the consent of the Local Government, be liable to be seized or applied in satisfaction of any debts or liabilities of any sort of the promoters; nor, without such consent, shall the promoters alienate the same, or any part thereof, in any way not provided for, or consonant with such agreement or conditions.

Lands for work under Act, and fixtures thereon, not liable to seizure for debt, nor alienable by promoters, without consent of Local Government.

XLIX. If the owners of a work under this Act shall voluntarily determine to wind up their affairs; or shall be so directed by an order of Court; or shall abandon or determine to abandon such work; or shall commit an act of Bankruptcy or Insolvency, it shall be lawful for the Local Government thereupon to terminate all contracts then existing between it and the promoters, in respect of such work; and to re-enter upon, and take possession of, all things whatsoever to which the Local Government shall be so entitled, under the conditions of such contracts; also of all lands taken at the public expense, or supplied to the said promoters free of cost; together with all trees, buildings, and structures, standing on such lands; as well as all machinery and permanent way fixed to the soil on such lands. Provided that nothing shall be so taken, which shall be expressly excluded from such liability under the conditions aforesaid. But the Local Government shall be bound to surrender, to a lawful claimant, all moveable property of which it shall at any time obtain possession from the promoters otherwise than by purchase, which shall not have been fully paid for by the promoters; or in lieu of such surrender, if the Local Government shall so determine, to satisfy all just outstanding claims on account of such property: provided that no such surrender shall be obligatory, and no such claim shall be entertained, in respect of anything that shall have been delivered to the said promoters more than twelve months before

Right of Local Government to terminate contracts with promoters in certain cases.

And to re-enter and take possession of lands, &c.

Saving of moveable property in certain cases.

Proviso.

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before the date of such surrender being required, or of such claim being made known to the Local Government.

AS TO MINES NEAR ANY WORK.

L. Whenever land shall be taken under this Act, for the construction of any work, the taking thereof shall not be held to convey, or include, the right to any mine of coal, or other minerals, lying under such land ; except only such part thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless compensation for the same shall have been expressly allowed in the award made in favor of the persons interested in the land.

Provision as to mines lying under land taken under Act.

LI. If the owner, lessee, or occupier, of any mine of coal, or of any other mineral, lying immediately under any work under this Act, or within forty yards therefrom, shall work the same, it shall be competent to the Local Government, on the application of the promoters of such work, to require such person to abandon such working ; or so to work the same as not to endamage the said work, and to construct the works necessary to make it safe. Provided that compensation shall be awarded to such owner, lessee, or occupier, in the manner provided for in the said Act VI of 1857, for any loss sustained by him from being compelled to abandon or alter his mode of working the mine ; and also for any necessary works constructed by him (when so required as aforesaid) in order to prevent damage to the said work ; but all damage or loss to the promoters, arising from any improper working of such mines, shall be at the risk of the owners, lessees, or occupiers, of the said mines ; and shall be made good by them.

And to working of mines under or near work under Act.

Proviso as to compensation.

AS TO OFFENCES, AND THE RECOVERY OF PENALTIES.

LII. Whoever shall obstruct, or commit any contempt of the lawful authority of, any public servant in the discharge of any function, or in the performance of anything undertaken, under this Act ; or shall commit mischief by destroying, defacing, or removing, any land-mark fixed by the authority of any such public servant, shall be punishable under the provisions of the Indian Penal Code.

Certain offences punishable under Penal Code.

LIII. All

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LIII. All penalties for offences under the Bye-laws and Regulations  
Recovery of penalties for offences under Bye-laws. aforesaid, shall be recoverable in the manner provided for  
offences punishable by fine only, in the said Act XVIII  
of 1854.