



LAW COMMISSION OF INDIA

TENTH REPORT

(LAW OF ACQUISITION AND REQUISITIONING OF LAND)

GOVERNMENT OF INDIA MINISTRY OF LAW

**REPORT
ON THE LAW OF
ACQUISITION AND REQUISITIONING OF LAND**

CHAIRMAN,
LAW COMMISSION.

New Delhi, 26th September, 1958

Shri Ashok Kumar Sen,
Minister of Law,
Government of India,
New Delhi.

My dear Minister,

I have great pleasure in forwarding herewith the Tenth Report of the Law Commission on the Law of Acquisition and Requisitioning of Land.

2. At the seventh meeting of the Statute Revision Section held on the 3rd May 1956, the Commission decided to take up the revision of the Land Acquisition Act and entrusted the task to a Committee consisting of Shri P. Satyanarayana Rao and Shri V. K. T. Chari.

3. The consideration of the subject was initiated by Shri P. Satyanarayana Rao, the senior Member of the section of the Commission dealing with Statute Law Revision who formulated a scheme for the revision of the Act. The principles underlying the scheme of revision were discussed at a meeting of the Statute Revision Section held on the 22nd September, 1956. A draft Report prepared by Shri Rao on the basis of the scheme was circulated to all the Members of the Commission and their views were invited thereon. The draft Report was discussed at a meeting of the Commission held on the 29th March, 1958. Important suggestions made by Members at this meeting were accepted and it was left to the Chairman to finally settle the Report in the light of the discussion.

4. The Commission wishes to acknowledge the services rendered by its Joint Secretaries Shri K. Srinivasan and Shri D. Basu in connection with the preparation of the Report.

Yours sincerely,
M. C. SETALVAD

REPORT ON THE LAW OF ACQUISITION AND REQUISITIONING OF LAND

CONTENTS

PARAGRAPHS		PAGES
1	Introduction	1
2—19	History of the legislation:	1
	(a) Acquisition	1—6
	(b) Requisition	6—8
	(c) Other laws	8
20—21	Need for consolidation	8—9
22	Legislative power under the Constitution	9
23	Constitutional limitations on the exercise of the power	9—10
26—35	Scheme for revision and consolidation	10—16
36—45	Important aspects discussed:	
	(a) Public purpose	16—20
	(b) Principles for determining compensation	20—22
46—55	Two important suggestions considered:	
	(a) 'Potential value'	22—26
	(b) Solatium	26—28
56—149	Examination of the provisions of the existing Acts, indicating the changes proposed:	
	A. Land Acquisition Act, 1894	28—45
	B. Requisitioning & Acquisition of Immovable Property Act, 1952	45—50

APPENDICES

App. I	Proposals as inserted in the body of the existing Act	51—89
App. II	Comparative Tables—	
	Table A.—Showing the provisions in the existing Act and the corresponding provisions in Appendix I	90—93
	Table B.—Showing the provisions in Appendix I and the corresponding provisions in the existing Act	94—97
App. III	State Land Acquisition Amendment Acts	
	Part I.—List of Acts:	
	Sec. I.—Part A States	98
	Sec. II.—Part B States	98
	Sec. III.—Part C States	99
	Sec. IV.—Native States	99
	Part II.—Brief summary of the Acts:	
	Sec. I.—Part A States (before 1st November, 1956)	100—113
	Sec. II.—Part B States (before 1st November, 1956)	113—124
	Sec. III.—Part C States	124—125
	Sec. IV.—Native States	125—131
App. IV	Other Acts containing provisions for acquisition	
	Part I.—List of Acts:	
	Sec. I.—Central Acts	132
	Sec. II.—State Acts	133—134
	Part II.—Brief summary of the Acts	
	Sec. I.—Central Acts	134—139
	Sec. II.—State Acts	139—145
App. V	State Requisitioning and Acquisition Acts—	
	Part I.—List of Acts:	
	Sec. I.—Principal Acts	145—147
	Sec. II.—Continuance Acts	147
	Part II.—Brief summary of the Acts:	
	Sec. I.—Principal Acts	148—172
	Sec. II.—Continuance Acts	172—174
	Part III.—Tabular Statement	175—186

REPORT ON THE LAND ACQUISITION ACT

1. The power of the sovereign to take private property for public use (called in America Eminent Domain—an expression believed to have been first used by Grotius) and the consequent rights of the owner to compensation are well-established. In justification of the power, two maxims are often cited: *salus populi est suprema lex* (regard for the public welfare is the highest law) and *necessitas publica major est quam privata* (public necessity is greater than private necessity). A critical examination of the various stages of evolution of this power and its ethical basis will serve no useful purpose as the power has become firmly established in all civilized countries. In England, the source of the power is Parliament. The earliest consolidating enactment was the Land Clauses Consolidation Act, 1845. This has to a large extent been altered by later statutes. Introduction:

2. The first piece of legislation in India in respect of acquisition of property was the Bengal Regulation I of 1824. It applied "throughout the whole of the provinces immediately subject to the Presidency of Fort William." It provided rules for enabling the officers of Government to obtain, at a fair valuation, land or other immovable property required for roads, canals or other public purposes. By Act I of 1850, some of the provisions of this Regulation were extended to the town of Calcutta with the object of "confirming the title to lands in Calcutta taken for public purposes". In the middle of the nineteenth century, when the railways were being developed, it was felt that legislation was needed for acquiring lands for them. Act XLII of 1850 declared that Railways were public works within the meaning of the Regulation and thus enabled the provisions of Regulation I of 1824 to be used for acquiring lands for the construction of Railways. History of the Legislation in India (a) Acquisition.

3. In Bombay, the Building Act XXVIII of 1839 was the first piece of legislation whereby the machinery for acquisition of land "for the purposes of widening or altering any existing public road, street, or other thoroughfare or drain or for making any new public road, street or other thoroughfare within the islands of Bombay and Colaba" was provided. This Act was extended by Act XVII of 1850 to taking lands for railway purposes within the Presidency.

4. In Madras, Act XX of 1852 was passed for the purpose of facilitating the acquisition of land for public purposes in the Presidency of Fort St. George. The Act of 1852 adopted, with modification, the first seven sections of the Bengal Regulation I of 1824. Act XLII of 1850 was at the same time extended to the Presidency. Both these Acts were extended by Act I of 1854 to the town of Madras.

5. The first enactment on this subject for the whole of British India was Act VI of 1857. It repealed all previous enactments relating to acquisition and its object, as stated in its preamble, was to make better provision for the acquisition of land needed for public purposes within the territories in the possession and under the governance of the East India Company and for the determination of the amount of compensation to be paid for the same. Under this Act, the Collector was empowered to fix the amount of compensation by agreement, if possible; but if there was no such agreement, the dispute had to be referred to arbitrators whose decision was to be final and could not be impeached, except on the grounds of corruption or misconduct of the arbitrators. This Act was amended by Acts II of 1861 and XXII of 1863. A few years' experience of the working of the Act revealed that the method of settlement of compensation by arbitration was unsatisfactory as the arbitrators were found to be incompetent and sometimes, even corrupt. There was no machinery provided to get their decision revised as there was no appeal provided under the Act against the award of the arbitrators. The legislature had to intervene and Act X of 1870 was passed. This Act, for the first time, provided for a reference to a civil court for the determination of the amount of compensation when the Collector could not settle it by agreement. It laid down a detailed

procedure for the acquisition of land and also provided definite rules for the determination of compensation. In 1885, a separate Act (XVIII of 1885) was passed with the object of making provision for the grant of compensation to the owners of mines situated under the land sought to be acquired by the Government, where such mines were not required by the Government but the owners were prevented from working them. This measure, though styled Land Acquisition (Mines) Act, had, in fact, nothing to do with acquisition. It was purely a law of compensation.

6. The Act of 1870 was found to be defective in various respects and eventually the Land Acquisition Act, 1894 (Act I of 1894) was passed. This Act was later amended by Acts IV and X of 1914, XVII of 1919, XXXVIII of 1920, XIX of 1921, XXXVIII of 1923, XVI of 1933 and I of 1938. It may be noticed here that the amending Act of 1923 introduced, for the first time, an important change, in that it gave an opportunity to the persons interested in the lands proposed to be acquired to state their objections to the acquisition and to be heard by the authority concerned in support of their objections.

7. The Land Acquisition Act, 1894, applied originally only to British India. The Native States passed their own Acts, for example, the Hyderabad Land Acquisition Act, 1309 Fasli [Act IX of 1309F (1899)], the Mysore Land Acquisition Act, 1894, the Travancore Land Acquisition Act, 1089 [XI of 1089 (1914)].

8. Under the Government of India Act, 1919 and the Government of India Act, 1935 (item 9 of List II of the Seventh Schedule), the Provinces had power to legislate with respect to compulsory acquisition of land. In exercise of this power, some of the Provinces amended in certain respects, the provisions of the Act of 1894. After the Indian Independence Act, 1947, by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, sub-section (2) of section 1 of Land Acquisition Act was amended by substituting the words "all the Provinces of India" for the words "the whole of British India". After the Constitution, under the Adaptation Order of 1950, for the words "the Provinces of India" the words "the whole of India except Part B States" were substituted. The Part B States Laws Act, 1951 (III of 1951), did not extend the Land Acquisition Act to Part B States. Under the

Adaptation of Laws No. 2 Order, 1956, which was promulgated after the States Re-organisation Act, 1956, for the words "except Part B States" the words "all the territories which immediately before the 1st November, 1956 were comprised in Part B States" were substituted. The Part B States had, however, laws of their own with regard to land acquisition. The Land Acquisition Act of 1894 does not apply to Jammu and Kashmir. The laws relating to Land Acquisition which are now in force in the various States of India may, therefore, be classified as under:

- (1) The Land Acquisition Act of 1894 as amended from time to time by the Provinces and the States by virtue of the power vested in them under the Government of India Acts and the Constitution;
- (2) The Acts passed by the Native States;
- (3) The Acts passed by some of the Part B States.

9. A detailed statement of these laws and a Summary of the changes introduced by the amending Acts passed by the States are to be found in Appendix III to this Report.

10. Besides the aforesaid Acts which directly deal with the acquisition of land, there are other Acts of the Union and the States in which provision is made for such acquisition. An examination of these Central and State Acts, passed before and after the Constitution and summarised in Appendix IV (which may not be an exhaustive list) of this report discloses that different procedures for the acquisition of land have been adopted in the legislation of the States and the procedure varies even in the same State, depending upon the purposes for which the acquisition is made. There is no uniformity either in the principles for the determination of the compensation or in the tribunals constituted for determining it. Some of the Acts have adopted the principles and procedure contained in the Act of 1894 while others have deviated from them. The main points on which there are deviations may be summarised as follows:

- (1) The connotation of the expression 'public purpose' has been enlarged so as to bring within the ambit of the Land Acquisition Act purposes for which a State may wish to acquire land.

- (2) The relevant date for the determination of the market-value of the land has been altered to the date of either the declaration under Section 6 or the date of a special notice, the issue of which is provided by the Acts.
- (3) The principles for determining compensation laid down in sections 23 and 24 of the Land Acquisition Act have been materially altered.
- (4) Some of the Acts authorise the appointment of a special Tribunal for the determination of the compensation and for its apportionment in cases of dispute. The qualifications of the members constituting the Tribunal also vary.
- (5) In most cases, an appeal from the adjudication of the Tribunal is provided and usually it lies to the High Court.

11. As one of the objects for which the Law Commission is constituted is to make laws uniform throughout the country as far as possible, the question for consideration is whether it is possible, having regard to the provisions of the Constitution, to apply the provisions of the Land Acquisition Act to cases governed by Acts specified in Appendix IV. Parliament is, under item 42 of List III, entitled to enact a law relating to acquisition and requisitioning of property. Article 254 of the Constitution lays down the principles for resolving inconsistency between laws made by Parliament and laws made by the State Legislatures in respect of matters specified in the Concurrent List. The proviso to Article 254(2) empowers Parliament to enact a law at any time with respect to the same matter, including a law adding to, amending, varying or repealing the law so made by the Legislature of a State. The essential condition for the application of the proviso to Article 254(2) is that the legislation made by Parliament and the State Legislature must relate to the same matter in the Concurrent List.

12. However, the Acts enumerated in Appendix IV do not relate exclusively to acquisition and requisitioning of property. For example, the Calcutta Municipal Act, 1951 is a piece of legislation in respect of a matter which, it may be urged, is exclusively within the State List though that Act has incorporated in it, in a modified form, the provisions of the Land Acquisition Act. Applying the doctrine

of pith and substance, it may not be possible to assert that such a piece of legislation is one with respect to the acquisition of land, though it contains provisions relating to its acquisition. It is, therefore, a matter of doubt whether the provisions relating to land acquisition in the Calcutta Municipal Act, 1951 could *pro tanto* be replaced by Parliamentary legislation. This would leave matters in a very unsatisfactory situation. It would result in the position that if the object of acquisition is different, different principles of valuation of land can be applied and different tribunals could be approached for the assessment of compensation, even though the lands sought to be acquired are situated in the same State.

13. If that be the true legal position, the difficulty can be solved only by persuading the States to conform, as far as possible, to the law relating to the acquisition of land enacted by Parliament. Another solution probably lies in the States requesting Parliament to legislate for them under Article, 252 of the Constitution. Whatever be the method adopted, it is very desirable that there should be uniformity in the laws relating to acquisition of land throughout the country.

(b) Requisition.

14. During and after the last war, requisitioning of property became an imperative necessity. The power to requisition property was derived under the Defence of India Act of 1939 and the rules framed thereunder. The Defence of India Act, 1939, came to an end on the 30th September, 1946. With the termination of the Act, the power to retain possession of the properties already requisitioned would have automatically lapsed, and in cases where compensation had yet to be determined, there would have been no machinery in existence, to determine the compensation. The legislature had to intervene to deal with the situation that had thus arisen.

Under the legislative power conferred by section 3 of the India (Central Government and Legislature) Act, 1946 (9 and 10, George IV, Chapter 39), the provinces passed Ordinances or Acts continuing the powers or requisitioning and in some cases took powers to acquire the requisitioned property.

15. Before the Constitution came into force, some of the States had passed Requisitioning and Acquisition Acts, presumably under the legislative power claimed to have been

conferred upon the provinces under Item 9 of List II of the Seventh Schedule of the Government of India Act, 1935, but a difficulty arose by reason of a decision of the Bombay High Court, which held¹ that the word 'acquisition' in entry 9 did not include the power of requisitioning and that, therefore, the provincial legislatures had no power to enact laws relating to requisitioning of property. The Governor-General, therefore, had immediately to intervene under section 104 of the Government of India Act, 1953, by issuing a notification² whereby he empowered the provincial legislatures to enact laws in respect of the requisitioning of land³.

16. The need for requisitioning did not, however, cease and the inadequacy of accommodation for officers of the Government, displaced persons and refugees created an emergency justifying the continuance of the power of requisitioning. The Centre and the States, therefore, passed Requisitioning Acts. In view of the distribution of legislative powers as it then existed under the Constitution, the Union had to pass a Requisitioning Act of its own for the requisitioning of property for Union purposes and the State Legislatures had to pass separate Acts for requisitioning for State purposes and public purposes other than Union purposes.

17. Appendix V to the Report gives details of the Requisitioning and Acquisition Acts now in force in all the States. These Acts are temporary Acts and most of them will expire in 1958. A close examination of the provisions of these Acts would show the absence of uniformity in their provisions. There are variations in the State Acts regarding the kinds of property that may be requisitioned, the principles for determining compensation payable in respect of the requisitioned property, the tribunal or the authority to determine such compensation and the power to acquire land which has been requisitioned.

18. We are of the view that the power of requisitioning property of a private owner is an extraordinary power and can justifiably be invoked only when an emergency arises. That is perhaps the reason why most of the Requisitioning

1. *Tan Bug Tain v. Collector of Bombay*, A.I.R. 1946 Bom. 216.

2. Notification No. F. 311-47C & G dated 21st October, 1947.

3. *Vide, The Assam Co. Ltd. v. The State of Assam and others*. A.I.R. 1953 Assam 177 and the preamble to Bombay Land Requisition Act, 1948 (Act XXXIII of 1948).

Acts are temporary. Though we have included the provisions relating to requisitioning of property in Part III of our legislative proposals, we do not suggest that the provisions in part III should be in force permanently or throughout the country. We have provided that these provisions will be operative only on the issue of a notification by the appropriate Government and further that the provision may be made applicable to the whole or part of a State as the circumstances may require. It is relevant, in this connection, to point out that in other countries also, the power of requisitioning property is very sparingly used and that too, only in cases of emergency.

(c) Other
Laws.

19. Though it is an Act which is closely connected with acquisition of land, we do not propose to deal with the Land Acquisition (Mines) Act, 1885 (XVIII of 1885). The laws enacted for the abolition of Zamindaris, Jagirs, major Inams and the like have vested in the respective State Governments the underground rights in the land. In the Ryotwari areas, the problem did not arise and could not arise as the right of the Government to the underground rights was never disputed. In view of this position, we would have recommended the repeal of the Act but for the fact that there may still be in existence some minor Jagirs and Inams in which the proprietor has underground rights in the land. As it has not been possible for us to make an exhaustive inquiry into this matter, we think that the Act may be continued on the Statute Book for some more years.

20. A proposal was made to us to include the Zamindaris and Jagirs Abolition Acts of the States in the proposed legislation. Such Acts, it is obvious are beyond the scope of the land acquisitions laws. They proceed on entirely different principles regarding the assessment and payment of compensation and the agency to determine it, and as such do not bear any comparison with the principles laid down in the Land Acquisition Acts. Some of these Acts have worked themselves out and the process of abolition has almost been completed. They are also subject to special constitutional provisions. It is, therefore, not advisable to include them in our draft legislative proposals.

Need for
consolidation.

21. The Union Government and some of the State Governments have advocated the consolidation of the laws relating to acquisition and requisitioning of property. It is obvious that there should be uniformity in the matter of this legislation and the rights and liabilities of citizens of

one State should not materially differ from those of another in respect of acquisition and requisitioning of property. We have, therefore, in the proposed draft, consolidated the laws on the subject.

22. Any scheme for revision and consolidation of the law has to be in conformity with the Constitution. It is, therefore, necessary to examine the extent of the legislative power of the Union and the States in respect of a law for the acquisition and requisitioning of land. Before 1956, the legislative power in respect of acquisition and requisitioning of property was distributed between the Union and the States and the power to lay down the principles of compensation was included in the Concurrent List (vide entry 33 of the Union List—List I; and entry 36 of the State List—List II; and entry 42 of the Concurrent List—List III) of the Seventh Schedule. This anomalous position was put an end to by the Constitution (Seventh Amendment) Act, 1956, by omitting all these entries in the Union List and the State List and substituting for entry 42 in the Concurrent List the words “Acquisition and Requisitioning of Property”. The Union and the States are now empowered to enact laws relating to acquisition and requisitioning of property.

Legislative-
power under
the Consti-
tution.

23. The exercise of this power is subject to the limitations laid down by Article 31 of the Constitution as amended. Under this Article, there are two limitations imposed upon the exercise of the power. First, the compulsory acquisition or requisitioning of the property should be for a public purpose; secondly, the law enacted in that behalf should provide for compensation for the properties so acquired or requisitioned and should either fix the amount of the compensation or specify the principles on which and the manner in which the compensation is to be determined and given. No such law, however, can be called in question in any court on the ground that the compensation provided by that law is not adequate. If, therefore, the law complies with these requirements, the compensation will not be justiciable. The contrary view laid down by the Supreme Court in the State of West Bengal v. Bella Banerjee¹ has been superseded by the amendment of the constitution.

Constitu-
tional limita-
tions on the
exercise of
the power.

24. The determination that a purpose is a ‘public purpose’ is no longer a matter for the subjective satisfaction of the appropriate Government. The existence of a public purpose is a necessary condition to the acquisition

¹ A.I.R. (1954) S.C. 170.

or requisitioning of property and that the existence of such a purpose must be established objectively has been settled by the decision of the Supreme Court in *Bella Banerjee's*¹ case and is still good law.

25. Sub-clause 5(a) of Article 31, however, creates an exception in that it saves the provisions of any existing law other than a law to which the provisions of clause 6 of that Article apply. If the Land Acquisition Act, 1894 and other existing laws are allowed to continue in force without alteration, the provision in these Acts to the effect that the declaration by the Government that the land was required for a public purpose shall be conclusive evidence cannot be challenged. The position would, however, be different if a consolidating Act is now enacted. The decision of the Government that a land is needed for a public purpose will not have the finality which it would have had, if Act I of 1894 and the other acts were left untouched. But that need not deter us from consolidating the law. The expression 'public purpose' is not restricted in its meaning by any definition and has been held to be of very wide import. We have accordingly proposed an inclusive definition of 'public purpose' keeping in view the principles laid down by the decisions of courts.

Scheme for
revision and
Consolidation.

26. The scheme adopted by us for consolidation and revision of the Land Acquisition and Requisitioning Acts is as follows :—

Part I—Preliminary (which contains the general provisions and the definitions).

Part II—Acquisition.

Part III—Requisitioning and requisition followed by acquisition.

Part IV—Procedure in court.

Part V—Miscellaneous.

Acquisition.
Part I

27. The present Central Act has been in force for over 60 years. Experience has shown that inordinate delay occurs in acquisition proceedings. The main complaint of the Governments is that they are greatly handicapped in carrying out large projects in and outside the Development Plans as well as other works of public utility, as the machinery provided and the procedure laid down in the Act lead to great delays in obtaining possession of the land sought to be acquired. For the smooth and speedy attainment of the ideal of a Welfare State, it is imperative that

¹. A.I.R. (1954) S.C. 170.

the Government should be able to obtain possession of the lands needed for their projects with the least possible delay. On the other hand, the complaint from the public is that there are unconscionable delays in the determination of compensation and its payment to the owners of properties. The Finance Ministry has given four instances in which the carrying out of projects has been delayed because they could not obtain possession of the land in time and it has been stated that acquisition proceedings commenced as early as 1948 are still pending. It is noteworthy, however, that the State Governments themselves admit that the delay is largely due to the tardy manner in which the machinery of the Government moves in the matter. They also admit that, if the land acquisition officers are made to work methodically and expeditiously, the pace can be quickened. Any proposal for the reform of the law should, therefore, aim at overcoming these evils. Most of the delay occurs in the initial stages of the proceedings between the date of the notification under section 4 and the declaration under section 6. Further delays arise in the making of the award by the Collector, with the result that as under the existing law, the Government cannot obtain possession until the award is made and the taking of possession is indefinitely delayed.

28. The chief remedy suggested by the State Governments and others is that a time limit should be fixed for each step required in the acquisition proceedings and, further, an over-all time limit should also be fixed for the completion of the proceedings by the Land Acquisition Officer. We have given effect to these suggestions. It has not been possible to provide for sanction for enforcing the time limit at each stage where a time limit has been fixed. We have, therefore, made a provision in sections 18 and 19 of the draft for cancellation of the notification under section 4(1), if the over-all time limit fixed for the two stages of the proceedings for acquisition—namely, the first, from the date of notification under section 4(1) to the date fixed by the Collector for an enquiry into the case and the second, from the stage of such enquiry to the reference to the Court for recording the agreement, if any, arrived at between the parties—is not adhered to. The result of cancellation of the notification under section 4(1) will be that the owner will be entitled to get back possession of the property together with compensation for

deprivation of possession thereof and damage, if any, done to the property.

29. Under the existing law, before a reference is made to the Court, three stages have to be gone through. The first stage is the notification under section 4 followed by a preliminary investigation and the hearing of objections to the proposed acquisition. The second stage is the declaration under section 6 after the Government decides upon acquisition. The third stage is the survey of the land, that is, demarcation, measurement and preparation of the plan, (unless this has been done during the first stage), followed by notices to the persons interested, inviting claims and enquiry by the Collector to enable him to make the award. Unfortunately, there is a *lacuna* in the Act in so far as it does not indicate the course of action which the officer authorised under sub-section (2) of section 4 should adopt after completing the investigation. Obviously, the object of the investigation is to find out, by operations to be carried out on the land, the suitability of the land for the purpose for which it is intended to be acquired. The object of the hearing of objections by the Collector under section 5A is to decide whether the acquisition is really for a public purpose and to ascertain, if possible, whether other lands in the locality may not be better suited to the purpose. The persons interested are also entitled at that stage to point out the inconvenience or the serious consequences that might follow the location of the work in the particular land specified in the notification under section 4. The Government, therefore, in reaching a decision, have to make up their mind on two points:

- (1) whether the purpose is public or not; and
- (2) the suitability of the land notified for the purpose.

Thereafter, the procedure beginning from section 3 has to be followed under the existing law. The most important point to consider at this stage is, whether the survey and demarcation and the preparation of the plan should be directed to precede or follow the declaration under section 6 or should be left to the discretion of the officer as at present. The effect of a Bombay amendment is that the investigation under sub-section (2) of section 4 can precede the preliminary notification under section 4. The

Government of India have suggested that after the investigation under section 4(2), there should be a further notification before the declaration under section 6 is made. Neither of these courses has commended itself to us. As we think it essential to enact provisions which will enable the Government to acquire possession as early as possible, we have sought to empower the Government to take possession of the land immediately after the declaration. To make this possible it is necessary that the survey, demarcation, and measurement of the land and the preparation of the plan should be completed before the declaration is made. We have, therefore, adopted the following scheme.

30. After the notification under section 4(1), the investigation under section 4(2) should be completed and there should be a report by the officer to the Collector. Simultaneously with the investigation by the officer, the Collector should hear objections to the acquisition and also prepare his report in that behalf. These two reports should reach the Government to enable the Government to take a decision on the question of acquisition. If the Government decide to acquire the land, the demarcation and other procedures, under section 8, should be completed. After these are completed, there should be a notification by the Government declaring that the land is needed for a public purpose, authorising the Collector to take order for acquisition (as under section 7) and empowering him to take possession of the land within a specified period. The notification should also include a detailed description of the land by its survey number, and area and should also state where the plan could be inspected. It should be possible to complete these proceedings, beginning with the notification under section 4 and ending with the declaration, within a maximum period of six months; and if the Government speed up the matter by suitable rules, the proceedings may even be finished sooner and the Government could obtain early possession of the land. We have made a separate provision for emergent cases widening the scope of the provisions of section 17 of the Act. For temporary possession, the power to requisition may be resorted to, after issuing a notification under Part III of the proposed legislation.

31. Under the existing law, after the declaration for acquisition, the Collector has to issue a public notice as well as individual notices to the persons interested,

inviting claims. The Collector then proceeds to make an inquiry and make an award determining the compensation. If there is any dispute, an application has to be made under section 8 for a reference to the Court. We feel that an inquiry by the Collector and an award by him are an unnecessary duplication of procedure. The inquiry by the Collector is administrative and not judicial¹. The so-called award is only an offer made by him on behalf of the Government. It binds the Government but not the other party. It is said that the Collector, in determining compensation, often acts on the information furnished by his subordinate revenue officers and does not independently weigh the evidence. The offer which he makes as a result of his inquiry can as well be made by him on the basis of the information which he has about the value of the land. He may get information, if he so desires, from his subordinates or by local enquiry and there are provisions in the Act enabling him to gather such information. He may consult the Government regarding the value of the land, or, if the acquisition is made on behalf of other persons he may consult them as well. On the basis of such material as is available to him he can make an offer to the persons interested and, if possible, may by negotiation fix the amount of compensation. If there is an agreement, it may be recorded and an order passed on that basis. Parties may agree as regards compensation payable, the area of the land and, if there are more persons than one interested in the same land, the apportionment of the compensation amount proposed to be given to the parties *inter se*. In fact, this procedure of settling the compensation by agreement has been adopted by some of the Requisitioning Acts as well as other Acts, such as the Coal Bearing Areas (Acquisition and Development) Act, 1947 (Act XXVIII of 1957), and we think this is a better method than on inquiry by the Collector, which causes considerable delay in the matter of fixing the compensation. If no agreement is reached, the Collector can straightway refer the matter to the Court. Again, where there is a dispute regarding apportionment, it would not be necessary, as at present, for the parties to make applications under sections 18 and 30; instead, the matters in dispute could at once be taken to the Court. It may be said that where the acquisition is in respect of large areas of land and the claims are numerous, there may be delays

¹ Ezra V. Secy. of State, 32 Cal. 605 P.C. at P. 629.

in determining the compensation even by the court. The solution for this lies in the hands of the Government; and if it needs expedition, it can appoint as many special courts as are necessary to deal with the volume of work and speed up the proceedings for determining compensation. The power to appoint special courts is provided in the proposed legislation (See Appendix I).

32. As regards the payment of compensation, we have provided that if there is agreement as to all the matters in issue, the Collector shall at once tender the amount to the parties. Even if an agreement is not reached, the Collector has to tender to the persons concerned the amount which he considers a fair compensation; and if they do not receive it, the Collector may deposit the amount in Court within the period fixed. These provisions are intended to secure the avoidance of payment of interest by the Government to the extent of the deposited amount, if there is eventual delay in the disposal of the proceedings owing to the objection of the persons entitled to the compensation. The interests of such persons have also been safeguarded by providing that their rights will not be prejudiced by the mere acceptance of the deposited amount.

33. We have adopted the Central Act as the basis for consolidation, and very few changes of a radical nature have been made in the scheme of the Act. We have tried to bring about uniformity by consolidating the provisions of the various Acts. Unnecessary provisions of the State Acts have been omitted. The main alteration which we have made is that, instead of constituting separate tribunals for determining compensation for the requisitioned property, a reference to the court as under the Land Acquisition Act has been substituted. Under the existing law, the tribunal has to be presided over by a High Court Judge or a District Judge. We think the better method is to refer it to the Court itself. Where acquisition follows requisition, we have provided that after the necessary notification of the intention to acquire, the procedure under the Land Acquisition Act should be followed.

34. The power of requisitioning can be exercised, under the law as it now stands, only for the purposes of the Union, and in most of the States for the purposes of the State. There is no power to requisition the land for the benefit of a company, or other persons or authorities as in the case of acquisition of land. We do not see any reason to enlarge the power and extend it to such cases.

(b) Requisitioning.

35. We are of the view that the law of requisitioning should be embodied in a permanent code but should be brought into force by a notification, only when such action is deemed necessary. We have, also, provided that no property could be kept under requisition for a period longer than 5 years. If before the expiry of that period, the Government thinks that it is necessary to acquire the property, they are at liberty to do so and suitable provision has been made in that behalf. If, however, they decide not to acquire it, then it would not be proper for them to continue to keep the property indefinitely in their possession.

Important aspects discussed.

36. We shall next proceed to explain some of the important features of the proposed legislation.

(a) Public purpose.

37. Public purpose is not defined in the Act. There is only an inclusive definition which relates to village sites in districts. In other respects, there is no indication in the Act of any test for determining whether a purpose is a public purpose or not. A large number of suggestions have been received by us urging that we should clearly and exhaustively define the term 'public purpose'. In an ever changing world, the connotation of the expression 'public purpose' must necessarily change. If a precise definition is enacted, it would become rigid and leave no room for alteration in the light of changing circumstances. It would leave no room for the courts to adjust the meaning of the expression according to the needs of the times. As observed by Alfred D. Jahr on Eminent Domain' dealing with 'public use'—(an expression used by the American Constitution):

"Public use has not been defined by the courts for the reason that to formulate anything ultimate, even though it were possible, would, in a changing world be unwise, if not futile. The Law of each age is ultimately what that age thinks should be the law."

Later he says :

"We are living in a rapidly changing world. The atomic age is upon us with its cataclysmic effects on the order of society. Our fundamental law is not static. Quite the contrary, it is dynamic and progressive. It therefore does, as

it must, respond to the changing times. It is impossible to enumerate all the uses which may be classified as public uses to authorize an acquisition of private property by eminent domain. Such a venture would not only be impossible, it would be equally futile. The courts have repeatedly and wisely refused to define 'public use' and for cogent reasons. Any definition would be unworkable, limited, and circumscribed. What may become a 'public use' in the future cannot be foretold by mortal man. All we can do is to venture a prediction, as certain as day follows night, that there will be many public uses in the future that we never dreamed of at the present time."¹

To the same effect are the observations of Das J. (as he then was) in the *State of Bihar v. Kameshwar Singh*²:

"With the onward march of civilization our notions as to the scope of the general interest of the community are fast changing and widening with the result that our old and narrower notions as to the sanctity of the private interest of the individual can no longer stem the forward flowing tide of time and must necessarily give way to the broader notions of the general interest of the community. The emphasis is unmistakably shifting from the individual to the community. This modern trend in the social and political philosophy is well reflected and given expression to in our Constitution. . . . The ideal we have set before us in Article 38 is to evolve a State which must constantly strive to promote the welfare of the people by securing and making as effectively as it may be a social order in which social, economic and political justice shall inform all the institutions of the national life. Under Article 39, the State is enjoined to direct its policy towards securing, *inter alia*, that the ownership and control of the material resources of the community are so distributed as to subserve the common good and that the operation of the economic system does not result in the concentration of wealth and

¹ P. 25.

² A.I.R. 1952 S.C. 252 at P. 290.

means of production to the common detriment. The words 'public purpose' used in Article 31(2) indicate that the Constitution uses those words in a very large sense. In the never ending race the law must keep pace with the realities of the social and political evolution of the country as reflected in the Constitution. If, therefore, the State is to give effect to these avowed purposes of our Constitution we must regard as a public purpose all that will be calculated to promote the welfare of the people as envisaged in these Directive Principles of State Policy, whatever else that expression may mean."

38. The expression 'public use' in the Fifth Amendment of the American Constitution received a narrow interpretation in the beginning but later pronouncements have put a more liberal interpretation upon it.¹

It is, in our view, neither possible nor expedient to attempt an exhaustive definition of public purposes. The only guiding rule for the determination of its meaning is that the proposed acquisition or requisition should tend to promote the welfare of the community as distinct from the benefit conferred upon an individual. The mere fact that the immediate use is to benefit a particular individual would not prevent the purpose being a public one, if in the result it is conducive to the welfare of the community. The question is exhaustively discussed in *Thambiran Padayachi v. State of Madras*² by Venkatarama Aiyar J. All that can, therefore, be attempted in a legislation of this kind is to provide an inclusive definition so as to endow it with sufficient elasticity to enable the courts to interpret the meaning of the expression 'public purpose' according to the needs of the situation, and this is what we have attempted.

39. There is yet another important aspect of 'public purpose', to which reference is necessary. In India, acquisition may be made either for the benefit of the Union or the State, or for the benefit of public or local authorities. 'Local authority' as defined in the General Clauses Act

¹ See Willis on Constitutional Law, Pages 817-820, 1936 Edition, and Nicholas on Eminent Domain, Vol. 2, Pages 434 and 445.

² A.I.R. 1952 Mad, 75.

means "a municipal committee, district board, body of port commissioners or other authority legally entitled to or entrusted by the Government with the control or management of municipal or local fund". Public authorities will include State-owned or State-controlled corporations. Besides these, acquisition is also permitted under the existing law for the benefit of companies and co-operative societies or friendly societies. Acquisition may also be necessary for the benefit of public charitable trusts such as hospitals or educational institutions managed by trusts created for the purpose. There are also town planning authorities and town improvement boards in various States and, perhaps, there will be authorities constituted for the development of rural areas also.

40. The machinery provided under the existing law in India for acquisition for the benefit of such authorities is different from that obtaining in England. The procedure under our law is that the body for whose benefit the acquisition is necessary approaches the Government and the Government sets the law in motion, acquires the lands under the machinery provided by the Act and transfers it later to the person or body of persons for whose benefit the acquisition is intended, after receiving the compensation payable together with the expenses incurred for the acquisition.

Under the prevailing law, in England there is a broad distinction between what are known as 'statutory undertakers' on the one hand (such as a railway company, or a water company or a gas company), and the Government departments or local or public authorities on the other, in regard to the power to acquire and the principles of compensation applicable. In the former case, the power to acquire is conferred by a special statute, and the Act conferring the power of acquisition specifies the land to be acquired. The principles of compensation applicable in such a case are contained in section 61 of the Land Clauses Act, 1845, which are analogous to those in section 23 of the Indian Act. In the case of Government departments or local or public authorities and some of the statutory undertakers to which the Acquisition of Land (Authorisation Procedure) Act, 1946 has been extended by the Town and Country Planning Act, 1947, the acquiring authority possesses the power of acquiring land in general, but authorization by the Government for the

exercise of such power is necessary. The appropriate Government authority confirms the proposal for the acquisition of a particular piece of land after following the prescribed procedure which gives to the persons affected an opportunity to be heard with a right of appeal to the Courts in certain cases.

41. Under the Indian law, however, it is possible to acquire land even when the authority for whose benefit it is acquired has no statutory power of acquisition, provided the purpose for which the acquisition is intended is a public purpose. The emphasis, therefore, under the Indian law is on the public purpose, while under the English law the acquiring authority has the statutory power to acquire particular land, or having a general statutory power of acquisition, has to seek the authorisation of the Government to acquire a particular piece of land.

42. The procedure for acquisition of land under the English law is complicated and involves considerable delays. It, therefore, affords no assistance in the solution of the problems confronting us and the best course, in our view, is to adhere to the procedure under the Indian Law which is simpler and, at the same time, endeavour to provide for its speedy operation.

(d) Principles for determining compensation. 43. Sections 23 and 24 of the Land Acquisition Act lay down the principles for determining the amount of compensation. Section 23 deals with matters to be considered, while section 24 relates to matters to be excluded, in determining compensation. The Act, therefore, lays down the rules for guidance in determining compensation both in a positive as well as a negative manner. The most important provision is the first clause in section 23, which enjoins that, in determining the amount of compensation to be awarded for land acquired under the Act, the Court shall take into consideration the *market value* of the land at the date of publication of the notification under section 4. The two points to be noticed in this sub-clause are, first, that the basis for determining compensation is the *market value* of the land, and, secondly, that the crucial date for the determination of the market value is the date of publication of the notification under section 4. The date so fixed is, in our view, appropriate and needs no alteration.

44. A considerable volume of case law has, however, been built up on the interpretation of the expression

'market value'. It is not possible to define the expression nor is it possible to lay down any uniform set of rules for the determination of market value of the land, applicable to all cases. In the nature of things, therefore, it must be left to the courts to evolve the principles for the determination of compensation, in different classes of cases, having regard to the nature of the property, its situation and other relevant considerations.

Though the Bill of 1893, which was subsequently enacted into Act I of 1894, contained a definition of market value, it was dropped by the Select Committee which preferred to leave the term undefined. The Committee observed: "No material difficulty has arisen in the interpretation of it; the decisions of several High Courts are at one in giving it the reasonable meaning of the price a willing buyer would give to a willing seller; but the introduction of a specific definition would sow the field for a fresh harvest of decisions; and no definition could lay down for universal guidance in the widely divergent conditions of India any further rule by which that price should be ascertained." We agree with this view. Some Judges have attempted a definition but we feel that no useful purpose will be served by a critical examination of these views expressed by them. The principles for determining the market value have been fully expounded by the Privy Council in *Sri Raja Vyricherla Narayana Gajapatraju Badadur Garu v. The Revenue Divisional Officer, Vizagapatam*¹ (known as the *Chemudu case*).

45. The first principle established by the *Chemudu case*¹ is that, in the case of compulsory acquisition, "the land is not to be valued merely by reference to the use to which it is being put at the time at which its value has to be determined, ****but also my reference to the uses to which it is reasonably capable of being put in the future". This proposition was treated by the Judicial Committee as axiomatic. The second principle laid down by this decision is that when the land has unusual or unique features or potentialities, the valuing officer must ascertain, as best as he can from the materials before him, the price a willing purchaser would pay for the land with those features or potentialities. It is further laid down that the value of the potentialities is to be taken into account even where the only

¹ I.L.R. (1939) Mad. 532.

possible purchaser for the potentialities is the acquiring authority. The 'market value' is defined by the Judicial Committee, as the price which a willing vender might reasonably expect to obtain from a willing purchaser. The disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy must alike be disregarded and both must be treated as persons dealing in the matter at arm's length and without compulsion. The principle of awarding compensation is based on the right of the owner to be indemnified by the community for whose benefit he is deprived of the property against his will.

It is no doubt true that, under Article 31(2) of the Constitution, if once either the amount of compensation or the principles for determining compensation are enacted by law, the justness of the amount of the compensation or the principles cannot be canvassed in a court of law. The article does not use the expression 'just terms' (Australian Constitution) or 'just compensation' (American Constitution). But it does not follow that a responsible legislature would ignore the basic principles underlying the award of compensation and enact a law opposed to the principles of equity and natural justice. The principles for determining compensation adopted in the case of the acquisition of large zamindari and jagir estates would obviously be inapplicable to cases where the legislature has to deal with owners of land who are not intermediaries. As far as possible, every one who is deprived of his property by compulsory acquisition should be enabled by the compensation awarded to him to place himself in substantially the same position in which he was before the acquisition. The community which benefits from the acquisition must also bear the burden of justly compensating the owner.

Two important suggestions considered. 'Potential value.'

46. On the question of compensation, two important suggestions have been made by some of the State Governments. The first is, that in determining the market value of the land, the actual use to which the land is put at the relevant date should be the basis for fixing its value and that its potential value should be altogether excluded from consideration. Secondly, that the provision for a solatium of 15% under section 23(2) of the Act should be omitted.

47. These suggestions are, perhaps, inspired by recent English legislation. The most important enactment in England in this behalf is the Acquisition of Land (Assessment of Compensation) Act, 1919, which applies only to Government Departments and public or local authorities. To some extent, the principles for determining compensation laid down under that Act have been further modified by the Town and Country Planning Acts, 1947 and 1954. A detailed examination of the provisions of these Acts is unnecessary and it is sufficient for our purposes to notice the general effect of the law as it stands today. The provisions of the Land Clauses Act, 1845 still apply to some statutory undertakers. In such cases, the principles applicable are, *first*, that where the Act applies unaffected by subsequent legislation, the value to the owner at the date of the notice to treat is the basis for the assessment of compensation. In this context, the value of land includes the value of the land with all its potentialities¹. *Secondly*, the fact that the land is peculiarly suitable for some particular purpose must be taken into account and it is immaterial that the purpose is one to which the undertakers propose to apply it. *Thirdly*, though there is no specific provision in the Land Clauses Act, it is customary to add 10% to the value as compensation for the compulsory nature of the acquisition.

48. The above principles laid down in the Land Clauses Act, 1845 have been radically altered by section 2 of the Acquisition of Land (Assessment of Compensation) Act, 1919, in its application to Government Departments and public and local authorities. Section 2 of the Act lays down the following six rules :

- (1) No allowance shall be made on account of the acquisition being compulsory.
- (2) The value of land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise; Provided always that the arbitrator shall be entitled to consider all returns and assessments of capital value for taxation made or acquiesced in by the claimant.

¹ In the *South Eastern Rly. Co. and London County Council Contract*. *South Eastern Rly. Co. v. London County Council* (1915) 2 ch. 252, at 258.

- (3) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any Government Department or any local or public authority: Provided that any *bona fide* offer for the purchase of the land made before the passing of this Act which may be brought to the notice of the arbitrator shall be taken into consideration.
- (4) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the inmates of the premises or to the public health, the amount of that increase shall not be taken into account.
- (5) Where the land, is, and but for the compulsory acquisition, would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the official arbitrator is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.
- (6) The provisions of Rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land.

The Town and Country Planning Act, 1947, introduced a further principle that if there is a potential development value, it should be excluded in fixing the compensation and the land should be valued on the basis of the existing use. The expression 'existing use' has not been defined but it has been interpreted as being similar to lawful use and not synonymous with actual use.

49. The combined effect of these provisions is that under rule 1 of section 2 of the Acquisition of Land (Assessment of Compensation) Act, 1919, no allowance would be made

for the compulsory nature of the acquisition; that is, the solatium of 10% which was allowed by usage in the case of an acquisition governed by the Land Clauses Act, 1845, is ruled out. Secondly, the potential value has to be left out of consideration. In England, therefore, at the present day, there are two methods of assessment of compensation. Section 6 of the Land Clauses Act, 1845 still applies, to statutory undertakers though that class is gradually diminishing, and the Acts of 1919, 1947 and 1954 apply to other cases.

50. In an Article¹ entitled "The Law and Ethics of Compulsory Acquisition of Land", Rr. Richard C. Fitzgerald has critically examined the principles laid down in section 2 of the English Act of 1919 and severely criticised them. He points out that it is not the grant of compulsory powers of acquisition which causes hardships but the exercise of such powers. "The problem is how to confer power to act to the public advantage without, at the same time, unreasonably violating private rights. This difficulty can be avoided to a considerable extent by framing the power in such a way that there is no room for doubt as to the precise purposes for which land can be compulsorily acquired; by giving the dispossessed owner a legal right to proper compensation and by devising reasonable safeguards for the exercise of such power". Commenting on the first rule in section 2 of the Act of 1919, he points out that the disallowance of the solatium for the compulsory nature of the acquisition is unethical and that the social and economic conditions (when the rule was made in 1919) were entirely different from what they are now. The reduction of the amount of compensation by excluding the value of development rights, that is, the potential value, has also been commented upon by him as unjust.

51. The basis of compensation adopted under the Act of 1919 has, in fact, created dissatisfaction in England. This is borne out by the Report of the Committee on Administrative Tribunals and Enquiries known as the Franks Committee. In paragraph 278 they observe:

"One final point of great importance needs to be made. The evidence which we have received shows that much of the dissatisfaction with the procedures relating to land arises from the basis of compensation. It is clear that

¹ Current Legal Problems, 1952, p. 54 at p. 60.

objections to compulsory purchase would be far fewer if compensation were always assessed at not less than *market value*¹. It is not part of our terms of reference to consider and make recommendations upon the basis of compensation. But we cannot emphasise too strongly the extent to which these financial considerations affect the matters with which we have to deal. Whatever changes in procedure are made dissatisfaction is, because of this, bound to remain”.

Conclusion 52. In our view, it would not be expedient or proper to adopt in India, for purposes of determination of compensation, principles which have been severely criticised by jurists and have caused dissatisfaction among the public in England. The object of the suggestion to restrict the market value to the actual use of the land is undoubtedly to exclude from consideration the potential value of the land. Such a provision is to be found, in our country, in the U.P. Town Improvement Act (VIII of 1919). The relevant provision in the Act is “market value according to the use to which the land was put at the date with reference to which market value is to be determined under that clause”. We do not see any justification for modifying the law as laid down in the *Chemudu case*² and exclude the potential value from consideration altogether. The Union and the States have not, in their recent legislation, excluded it, and in the latest instance of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (Act XX of 1957), Parliament has adopted section 23(1) of the Land Acquisition Act, 1894, without any modification, for determining compensation. The following sections of the Requisition Acts passed by the States may also be pursued in this connection:

The Assam (Requisition and Acquisition) Act, 1948, section 7(1);

The West Bengal (Requisition and Acquisition) Act, 1948, section 7(1).

Solatium. 53. We are also not in favour of omitting section 23(2) so as to exclude the solatium of 15% for the compulsory nature of the acquisition. It is not enough for a person to get the market value of the land as compensation in order to place himself in a position similar to that which he would have occupied, had there been no acquisition; he may have to spend a considerable further amount for

¹ Italics Ours.

² I.L.R. (1939) Mad. 532 P.C.

putting himself in the same position as before. If, for example, the only property a person possessed was three acres of arable land and he was deprived of this under the compulsory power of acquisition, he would no doubt get the market value of his property; but he would not be in a position to provide himself with a vocation to which he had been all along accustomed. He must find suitable land in or about the locality where he resides which may not be easily available and he may have to wait and spend more than the amount of compensation he has obtained. As pointed out by Fitzgerald, the community has no right to enrich itself by deliberately taking away the property of any of its members in such circumstances, without providing adequate compensation for it. This principle has been in force in India ever since the Act of 1870 (*vide* section 42). The Select Committee which examined the Bill of 1893 did not think it necessary to omit the provision but on the other hand transferred it to section 23. There is equity behind the rule, as the transfer of the land is not voluntary but compulsory. It may be of interest to notice that in the United States of America the same principles as laid down in the *Chemudu case*¹ are in vogue and we think it more equitable to follow the principles accepted in the United States rather than adopt the recent much criticized changes in the law in England.

54. The only ground urged in support of the omission of section 23(2) is that there has been an abnormal increase in land values. The policy of fixation of ceilings on land holdings, the uncertainty regarding the future trend of legislation and the increase in the cost of cultivation, have led, on the contrary, to a considerable fall in the land values in rural areas in recent years. To avoid the loss of property under such anticipated legislation, sales and partitions of land have enormously increased. In urban areas the position may be somewhat different but the rise in land values generally corresponds to the rise in the price level and the fall in the value of money. We think, therefore, that the reasoning on which the proposed omission of section 23(2) is based cannot be supported.

55. Two principles from section 2 of the English Act of 1919, the acceptance of which have also been suggested by some of the States, have, however, been adopted by us.

¹ I.L.R. (1939) Mad. 532 P.C.
L.A. w/67-3

The first is, that any increase in the value of the land, arising from its being put to unlawful use should not be taken into consideration; and the second is, that an increase in the rental value of a building which is so over-crowded as to be detrimental to the health of the inmates should also be left out of consideration. We have made suitable amendments to section 24 giving effect to these principles. Lastly, we have considered a proposal made to change the date of determining the market value under section 23(1) to the date of the taking of possession of the land by the Government. Under the scheme proposed by us, there will not be much lapse of time between the date of the notification under section 4 and the taking of possession of the land by the Government. We see no reason for accepting the proposed change.

Examination of the provisions of the existing Acts, indicating the changes proposed. 56. The other changes proposed by us will appear from our comments on the provisions of the two existing Central Acts on the subject, viz., the Land Acquisition Act, 1894, and the Requisitioning and Acquisition of Immovable Property Act, 1952, which we now proceed to examine in their serial order.

A. Land Acquisition Act, 1894 Sec. 1* 57. It has already been pointed out¹ that section 1, as amended by the Adaptation Order made under the States Reorganisation Act, 1956, stands thus—

"It extends to the whole of India except all the territories which immediately before the 1st November, 1956 were comprised in Part B States".

Part B States having ceased to exist, the historical reasons justifying the enactment of separate laws for those territories are no longer there and as such there is no reason why Acts of all-India application should not extend to such territories also, excepting, of course, Jammu and Kashmir, in respect to which Parliament has no legislative power in regard to matters in the Concurrent List.

We have, therefore, recommended that the Act should extend to the whole of India except the State of Jammu and Kashmir.

*The reference in the margin is to sections of the Land Acquisition Act, 1894.

¹ Para. 8, *ante*.

58. This section has already been repealed. Sec. 2.

59. Apart from some modifications introduced in the definition of the existing expressions, some of the expressions defined in the Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952), have also been incorporated. Sec. 3.

(i) There is no material change in the definition of this expression. Appropriate Government.

(ii) There is no material change here also. Collector.

(iii) An alteration has been effected in the definition of a company, keeping in view the new provisions in the Companies Act, 1956. The definition has been simplified so as to make it clear that companies registered under the previous Company Law are also within the purview of the definition. As regards foreign companies, if their principal place of business is in India, they would come within the scope of the definition. Company.

Co-operative Societies have been kept outside the definition of company. While the purposes for which acquisition can be made for the benefit of companies are very limited, in the case of co-operative societies which have been brought into existence under the Central or the State Acts, there may be very many objects satisfying the definition of a public purpose, for which acquisition of land may have to be made. Acquisitions for a co-operative building society would be a pertinent example in this connection. If the purpose for which land is required by a co-operative Society is a public purpose they should be at liberty to approach the concerned Government for acquiring the land.

The existing section 38A of the Land Acquisition Act treats an industrial concern, as defined by it, to be a company. We think that these may more appropriately be included in the definition of company. The definition in section 38A has, however, been criticised as being very narrow in its scope and it has been suggested that the definition should be enlarged. We have accepted this suggestion. Various industrial and housing schemes have been launched by the State Governments in the public sector and by industrialists in the private sector. We have, therefore, modified the definition of 'industrial concern' in the light of the provisions of the Factories Act and the Income-tax Act, and incorporated it in the definition of 'company'.

- Competent authority (iv) This definition has been taken from the (Central) Requisitioning Act of 1952, with slight verbal changes.
- Co-operative Society (v) This new definition has been added in view of the inclusive and enlarged definition of public purpose which brings within its purview acquisition for a co-operative society.
- Court. (vi) Owing to the large volume of work in recent times relating to acquisition of land, it has become necessary to empower courts other than the District Court to deal with such matters. The powers of the District Judge are very frequently delegated to the subordinate courts. If power is given to the State Governments to empower a subordinate Judge or even a Munsif where the claim for compensation is within his pecuniary limits, to exercise the powers of the Court under the Act, there will be quicker disposal of land acquisition proceedings. An appeal from such a court should lie to the Court to which appeals ordinarily lie from that court. If the number of cases are numerous enough to justify such action, it would be open to the State Governments to establish a court to deal exclusively with land acquisition matters and this will result in a speedier disposal of the cases. The proposed definition follows more or less the definition of 'Court' substituted by the West Bengal Land Acquisition (Bengal Amendment) Act, 1934 (II of 1934).
- Land. (vii) In the Land Acquisition Act, "land" is defined thus: "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." The Requisitioning and Acquisition of Immovable Property Act, 1952, uses the word 'property' and defines it as meaning "immovable property of every kind and includes any rights in or over such property." The expression 'immovable property' is defined in the General Clauses Act (X of 1897) as including "land, benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth." It will be noticed that the definition of land in the Land Acquisition Act has the same meaning as that of immovable property in the General Clauses Act. There is also no substantial difference in the definition of "land" in the Land Acquisition Act and of 'property' in the Requisitioning and Acquisition Act of 1952. Hence in order to achieve uniformity, we have adopted the definition of land in the Land Acquisition Act. It will apply to acquisition as well as requisition. The

Act, it has to be mentioned, does not contemplate the acquisition of things attached to the land without the land. It is the land including the rights which arise out of it and not merely some subordinate interest which is capable of being acquired under this Act. It has also to be pointed out here that when Government acquires land, it acquires only the sum-total of all private interests subsisting in them. If the Government has itself an interest in the land, that interest is outside the acquisition. Of course, for the determination of compensation payable, an investigation of the value of this interest of the Government in the land is necessary but that would not make it the subject matter of acquisition. Government is not a person interested in the acquisition.¹

It should, however, be mentioned that land can be acquired without acquiring mines, and minerals underneath [*vide* Land Acquisition (Mines) Act, 1885 (XVIII of 1885)].

(viii) The definition in the Requisitioning and Acquisition Act, 1952 has been adopted with modifications. Landlord.

(ix) A new inclusive definition of the expression 'local authority' has been added, in order to bring town-planning authorities within its scope. Local Authority.

(x) This expression has been defined both in the Land Acquisition Act, 1894, as well as in the Requisitioning and Acquisition of Immovable Property Act of 1952. The expression as defined in the Land Acquisition Act has been adopted by us with some changes in the light of the definition given in the latter Act. Person interested.

The Bihar Government has suggested an amendment to this definition which would bring within its scope a person who suffers damage as a result of the acquisition even where no part of his land or right or easement has been acquired or affected. The Bihar Government has pointed out that as a result of the Mayurakshi Reservoir Project in that State, vast areas have been submerged under water and the inhabitants thereof have had to shift to other places. As a result, labourers and professional men working in the submerged areas have lost their occupation. They have not been paid any compensation since no part of their land or right or easement had been acquir-

¹ *Collector of Bombay v. Nusservanji*, A.I.R. 1955 S.C. 298.

ed or affected and they could not therefore be treated as coming within the purview of the expression 'persons interested'. As this suggestion raises an important question of policy, we have not thought it fit to enlarge the definition so as to include such cases. We are, however, of the view that the matter deserves careful consideration inasmuch as the loss suffered by the persons in the instance mentioned is the direct result of the acquisition of the land.

Premises Prescribed. (xi), (xii) The definitions of 'premises' and 'prescribed' have been taken from the Requisitioning and Acquisition Act, 1952.

Public purpose. (xiii) We have adopted an inclusive and enlarged definition of public purpose as explained in paras 37—39 above.

Tenant. (xiv) The definition has been taken from the Requisitioning and Acquisition Act of 1952 and modified so as to cover cases where the tenant pays premium only or premium and rent.

We have dealt above with all the expressions defined in the two Central Acts on acquisition and requisitioning except 'award' and 'persons entitled to act'. 'Award' has not been defined as it is unnecessary to do so under our revised scheme.

The expression persons "entitled to act" which is defined in clause (g) of the section 3 of the Land Acquisition Act, has been taken out of the definition section and is the subject matter of a new section¹ which adopts the definition with a few verbal changes.

Sec. 4. 60. A suggestion that the Collector should also be empowered to initiate proceedings for acquisition of land under this section has been made by some of the State Governments with a view to avoid delay. This suggestion, which is reasonable, has been accepted.

It was further suggested that after the words 'public purpose' the words 'or for a company' should be added. But it appears to us that this is unnecessary, and is, perhaps, inappropriate, in view of Article 31 of the Constitution. The definition of 'public purpose' which we have adopted enables a company to approach the Government for acquisition in cases where land is needed by it for

¹ S. 3 of App. I.

specified purposes. Under the proposed definition, the acquisition for a company will be acquisition for a public purpose, if it is for the provision of housing for labour and amenities connected therewith. The requirement of section 4 will be met, if such a purpose exists.

61. We are also of the view that before the law is set in motion, Government should have at least a rough idea of the land proposed to be acquired and should be in a position to describe it in the notification by its survey number if it is already surveyed, and also give the approximate area and its boundaries. If the land had not been surveyed they should at least be able to specify the land by its boundaries. This is necessary so that the persons interested should have precise information about the land proposed to be acquired and the purpose for which it is intended to be acquired. At present, there is no obligation on Government to give particulars in the notification. The objectors may, if their land is affected by the notification, object on the ground that the purpose is not a public one or that the locality is not suited for that purpose. If, for example, in a crowded locality a hospital for infectious diseases is proposed to be established, it would be open to the objectors to show the serious consequences that would ensue, if the intended project is carried out. If, in such a case, no particulars are furnished in the notification, it would not be possible for the public affected to formulate their objection. On the other hand, if particulars are given, they may be able to point out lands better suited for the purpose.

62. We have added an explanation which gives the meaning of the expression "convenient place"; we have also added a new sub-section which provides that the notification itself should specify the period within which objections, if any, can be made.

63. Sub-section (2) of this section confers powers to enter upon the land for the purpose of finding out after investigation, the suitability of the same for the purposes for which it is proposed to be acquired. This has been retained without any material alteration. In cases where the acquisition is made for the benefit of a company or a local authority or any body of persons, it is but reasonable that an officer of such a company or a local authority or a body of persons may also be authorised to exercise the powers under the existing sub-section (2), as is provided in sub-section (1) of section 38 in the case of a company.

64. There is a lacuna in the Act in that it does not provide for a report to be made to the Collector of the result of the investigation within a specified time. Since the underlying object is to ascertain whether the land is suitable for the purpose in view, it is but proper that the report should be placed before the Collector who would after considering it, make his recommendation to the Government. Further, as suggested by some of the State Governments, a time-limit should be fixed for this report to be submitted to the Collector. This suggestion has been accepted¹. We have also provided that the Collector should forward the report with his remarks to the appropriate Government along with his report under section 6(2).

65. In his connection, we have considered the amendment introduced by the Bombay Amendment Act, 1945, introducing Part IA entitled 'preliminary survey' consisting of sections 3A and 3B. The object of the amendment seems to be to have a preliminary investigation before the issue of the notification under section 4. We are, however, of the view that such investigation should be carried out only after the notification under section 4 is made. It would be unjust in our opinion to permit the officers of Government to enter upon private land without a notification conferring authority for that purpose. In the Statement appended to the Bombay Bill, the reason assigned for the change is that if the lands originally notified, after the survey authorised under sub-section (2) of section 4, are found to be unsuitable for the purpose for which they were proposed to be acquired, it necessitates a fresh notification in respect of other lands. This, it is said, results in delaying the land acquisition proceedings. But, in our view, the issue of a fresh notification under section 4 in such cases need not cause any delay, particularly, as the Collector would be entitled to issue such a notification. A general authority to enter on any land in the locality would not be reasonable. It might result in considerable inconvenience to the owner of the land if the officers are permitted to enter and make investigations on the land without prior intimation. We are, therefore, of the view that it is advisable that the present procedure of the issue of a notification under section 4 before the exercise of the powers under sub-section (2) of that section should continue.

¹ S. 4(5) of App. I.

66. The Central Government has suggested an alteration providing that the report of such an investigation, if an investigation is made under section 4(2), should be submitted to the appropriate Government. We have accepted this suggestion. However, we have not accepted the further suggestion that there should be a fresh notification giving particulars of the land after the appropriate Government has received the report of the investigation. This is unnecessary as the final declaration will contain all the particulars about the land. Further, under the scheme recommended by us, the notification under section 4 will itself contain the necessary particulars. After the issue of section 4(1) would be required to enable the objectors to be considered are as to the existence of a public purpose and the suitability of the land for the purpose. No particulars other than those mentioned in the notification under section 4(1) would be required to enable the objects to formulate their objections. The position, however, would be different when claims for compensation have to be made. The claimants must then know definitely all the particulars about the land. Provision for this has been made in the relevant section.

67. We have provided that the dispute as to the sufficiency of the damage should be referred to the court instead of the collector for decision. Sec. 5.

68. We have provided in this section that the period within which objection can be made should be 21 days and not 30 days. We have further provided that the Collector is to submit the case together with his report containing his recommendations within a time limit which is indicated. We have also provided that the objector should be given a copy of the report, on his application and at his cost. It has also been provided¹ that the appropriate Government, after giving an opportunity to the objectors of being heard, shall make its decision and such decision as to the question whether the land is needed for the purpose stated in the notification shall be final. Sec. 5A.

69. The provisions regarding the declaration under section 6 have been modified in several respects. If the Government decides to proceed with the acquisition, it has to direct the Collector, within six weeks from the date of the receipt of the report from him², to proceed to mark Sec. 6.

¹ S. 7, App. I.

² S. 8(3), *ibid.*

and measure the land and make a report of his operations to Government. Within one month of the receipt the Collector's said report, the Government has to make a declaration that the land is needed for a public purpose and specify that purpose and also give particulars regarding the land such as its precise boundaries, survey number, area and the place where the plan could be inspected. It has been provided that immediately after the declaration, the Collector should take order for the acquisition of the land. The Collector is to take possession of the land within two months (or within such longer period not exceeding four months in all as the appropriate Government may allow) from the date of the declaration, after giving a reasonable notice to the persons interested.

Two new sub-sections¹ have been added. One of them practice, its working has been reduced to a farce by the land specified in the notification, such lands as are not covered shall be deemed to have been excluded from the proposed acquisition and the notification under section 4 shall be deemed to have been cancelled to that extent. The other sub-section enables the Government, if it so decides, to abandon the acquisition proceedings by making a notification to that effect.

The proviso to section 6(1) has been omitted, as in practice, its working has been reduced to a farce by the Government making a mere token contribution of one anna from its revenues to the amount provided by other persons for whose benefit the land is being acquired. The courts have held² this to be sufficient compliance with the proviso. The compensation payable has necessarily to come out of public funds, if the acquisition is for the State; but if it is for the benefit of other persons, the Government would see that the funds are provided by them. So long as the test of the existence of public purpose is satisfied, it is immaterial whether the compensation is paid out of public funds either in whole or in part.

Sub-section (3) has been omitted, as it is repugnant to Article 31(2) of the Constitution.

Sec. 7.

70. The provision contained in section 7 regarding the taking of order for acquisition finds a place in a modified form³ in the proposed section 8.

¹ Sub-secs. (5), (6) of S. 8, App. I.

² *Suryanarayana V. Province of Madras*, A.I.R. 1945 Mad. 394 (F.B.).

³ Para 69, *ante*.

71. As stated earlier, we have proposed that the declaration should be made only after the land is marked out, measured and planned and the survey is completed. Sec. 8
72. The provisions of section 9 have been reproduced¹ with modifications. The notice should be served in such time as to give at least 15 days to the persons to appear and state their claims in regard to their respective interests before the Collector. Sec. 9.
73. Section 10 has been retained² with the slight changes. Sec. 10.
74. The sections relating to enquiry and award have been recast, as we have decided to abolish altogether the procedure of an award by the Collector and have provided, instead, for a reference to the Court direct in cases of dispute. As far as possible, the Collector should try to settle all matters in dispute by negotiation and agreement. If, however, no agreement can be reached the Collector has to make a reference to the Court³. Secs. 11-13
75. Section 14 dealing with the power to summon witnesses etc. has been omitted in view of the fact that we have adopted the corresponding provision in section 12 of the Requisitioning and Acquisition of Immovable Property Act, 1952, which is more comprehensive. Sec. 14.
76. This section has been made sub-section (4) of section 12 of App. I. Sec. 15
77. This section, enabling the Collector to take possession of the land whereupon it vests absolutely in the Government free from all encumbrances, has been retained with an additional provision⁴ requiring the Government to notify the fact of such vesting and enabling such notification to be used as evidence of the Government's title. Sec. 16
78. The provisions of section 17 have been amplified and some of the restrictions contained therein have been removed. Thus, the restriction under the section confining the power to take immediate possession to waste and arable lands has been removed. Likewise, as there may be other emergencies of the nature contemplated in sub-section (2), such as the repairing of breaches in the means of communication, we have included them specifically⁵. We have added a new sub-section to the effect that the Collector Sec. 17

¹ S. 10, App. I

² S. 11, App. I.

³ S. 12(3), App. I.

⁴ S. 9, App. I.

⁵ S. 32(I)(b), App. I.

should, on taking possession, immediately report the same to the appropriate Government together with the reasons therefor. Thereupon, the appropriate Government has to decide, within three months of the receipt of the report, whether proceedings for acquisition of the land should be commenced or not. If the Government fails to decide within four months of the date of taking possession, the persons interested in the land shall be entitled to restoration of possession of land together with compensation.

79. We have also provided¹ that, apart from any question of emergency, the Collector may, in any case and at any time after notification under sub-section (1) of section 4, take possession of land, if the persons interested give their consent and surrender possession by waiving their right to object to the acquisition.

80. We have further provided² that in any case where immediate possession has been taken (whether by consent or otherwise), if the appropriate Government does not wish to proceed with the acquisition of the land, it shall pay compensation in accordance with the provisions of section 37(2) of Appendix I. On the other hand, if the Government proceeds to acquire the land, then it shall vest absolutely in the Government free from all encumbrances, on the publication of a declaration under section 8 of Appendix I. We have also provided for the Payment of interim compensation, in such cases of acquisition, to the extent of about 60 per cent of the amount which the person concerned would, in the opinion of the Collector, be entitled to claim in respect of the land. If, however, the amount offered is not accepted, the Collector shall deposit the same in court.

81. The provisions of sub-section (3) of section 17 have been made into a new section³ and it has been provided that even in those cases where payment is to be made for damage sustained by sudden dispossession, if there is any dispute as to the sufficiency of the amount, the Collector shall refer the same to the court.

82. Sub-section (4) of section 17 has been omitted as it is unnecessary under the procedure recommended by us. Under the existing set-up, in urgent cases, possession could be taken only after a notice under section 9(1),

¹ S. 31, App. I.

² S. 33, App. I.

³ S. 34, App. I.

and hence there was the need for a provision like sub-section (4). But under the scheme proposed by us, possession can be taken by the Government, even before the issue of a notification under section 4.

83. Section 18 has been omitted in view of the suggested scheme of a reference to the Court.¹ Sec. 18.

84. Section 19 has been adopted² with verbal changes and with the omission of clause (c) of sub-section (1). To sub-section (2), we have added that in making a reference to the Court, the Collector shall furnish any other information available to him relating to the dispute. Sec. 19.

85. This section has been retained with the addition that notice shall also be served upon the person or authority for whom the acquisition is being made, when such person or body is not the Union or the State Government. Sec. 20.

86. We have not thought it necessary to retain this section. Sec. 21.

87. This section has been adopted without any material change. Sec. 22.

88. Matters relating to the principles upon which the compensation is to be determined have already been discussed at length³. It is, therefore, sufficient to point out that section 23 has been retained in its present form⁴ with the addition, in sub-section (1), of a new clause (numbered seventhly) providing that, where the owner of the land in good faith had taken active steps and incurred expenditure for securing a more profitable use of the land, the expenditure so incurred shall be taken into consideration by the court. Sec. 23.

89. This section has also been retained with some additions. In clause seventhly, we have made a modification providing that while improvements are not ordinarily to be taken into consideration by the Court, it shall take them into account where the improvements were necessary for the maintenance of the building in a proper state of repair. We have also added a new clause (numbered eighty, providing that the Court shall disregard any increase in the market value by reason of the building being put to a use in a manner which could be restrained Sec. 24.

¹ S. 12(3). *ibid.*

² S. 20, *ibid.*

³ Paras 43—55, *ante.*

⁴ S. 21, App. I.

by a Court or which is either contrary to law or detrimental to the health of the inmates or the public. It may be mentioned that many of the City and Town Improvement Acts, in the various States, contain similar provisions.

- Sec. 25. 90. The principles contained in section 25 have been made applicable to the claim before the court. We have also provided¹ for the contingency of the person interested omitting to make a claim before the Collector without sufficient cause. In such cases, the amount awarded by the court is not to exceed the amount fixed by the Collector.
- Secs. 26-27. 91. These Sections have been consolidated² with verbal changes, and with the addition of a sub-section requiring the Court to specify the market value of the specified items, separately.
- Sec. 28. 92. The rate of interest payable on excess compensation has been reduced to 5 per cent from 6 per cent. In this connection, we have provided in a new section that the interest payable by the Collector under section 14 shall also be included in the final order.
- Sec. 29. 93. We have modified section 29 by providing that the court shall apportion the amount according to the interests of each person and specify the amount due to each person in the final order. We have also provided that it will be open to each person to execute the final order to the extent of the amount due to him without the consent or concurrence of the other persons interested in the compensation awarded.
94. We have added a new section³ to provide that the final order of the court shall be executable as if it were a decree of the civil court and the provisions of the Code of Civil Procedure relating to execution shall apply to the same. But execution shall not issue against the Government or any officer of Government, unless the order remains unsatisfied for a period of 3 months from its date.
95. Another provision⁴ has been added to the effect that when there is no person competent to alienate the

¹ S. 52(4), *ibid.*

² S. 58, *ibid.*

³ S. 59, *ibid.*

⁴ S. 55, *ibid.*

land acquired, the Collector shall, within 4 months of the official order of the Court, deposit in Court the amount directed to be paid as compensation.

96. We have considered it unnecessary to retain this section in view of the scheme adopted by us. Sec. 30.

97. Sub-sections (1) and (2) of section 31 have been retained with the following changes. Sec. 31.

We have provided that the Collector shall tender payment of the compensation within one month from the date of his order, and also give notice to the person interested, after making the deposit in Court.

The first two provisos to sub-section (2) of section 31 have been omitted and, instead, a new section¹ has been introduced providing that a person's rights will not be prejudicially affected merely by reason of the fact that he chooses to receive or withdraw from the court the amount deposited without protest.

The third proviso to sub-section (2) has been made into a new section².

We have also added a new section³ providing that in case an agreement is reached before the Collector, the amount fixed by agreement shall be paid by the Collector to the persons interested within one month from the date of the order recording such agreement. We have also provided that in case of default of such payment, the order of the Collector may be executed as if it were a decree of the civil court, and interest at the rate of 5 per cent shall be paid on the amount fixed.

In a new section⁴, we have provided that where the Collector does not take possession of the land within the period specified in sub-section (4) of section 8 of Appendix I, for the purpose of calculation of interest, the date on which the said period expires should be treated as the day on which possession of the land was taken by the Collector.

98. Sub-sections (3) and (4) of section 31 have been incorporated in a new section⁵ with an addition in sub-section (4) which will make it possible for the Collector to enter into any arrangement with the person interested in the land such as the grant of some other land in exchange for the land that has been acquired.

¹ S. 38, *ibid.*

² S. 73, *ibid.*

³ S. 15, *ibid.*

⁴ S. 16, *ibid.*

⁵ S. 17, *ibid.*

99. Two new sections¹ have been introduced, embodying provisions of a far-reaching character to secure completion of the proceedings before the Collector within a specified time. First, we have provided that all proceedings under the Act from the date of the notification under S. 4 to the date of the first hearing before the Collector shall be completed within a period of 8 months. The Government may, however, extend this period by four months. Secondly, we have provided that the Collector shall complete all proceedings under section 12 of Appendix I within 4 months of the date fixed for the first hearing under sub-section (2) of section 10. The other section introduced by us provides that in case the Collector does not complete the proceedings within the periods specified, the notification under sub-section (1) of section 4 shall stand cancelled, and the persons interested may apply to the Court for an order against the Collector for restoration of possession (if possession has already been taken by the Collector) and also for payment of such damages as the court may determine. Such an order of the court may be executed as if it were a decree.

Sec. 32.

100. Section 32, dealing with the investment of money deposited in respect of land belonging to persons incompetent to alienate, has been retained, with the addition of a new sub-section which provides that the money required to be invested in the purchase of securities referred to in the section may, notwithstanding anything contained in sub-section (1), be paid by the Court to such person or persons, if, before such investment of money, the person or persons become absolutely entitled thereto.

Sec. 33.

101. Section 33, which deals with the investment of money deposited in other cases, has also been retained with the addition of a new sub-section to the effect that the Court may pay any such money to the person entitled to it if the cause for which the money was deposited has ceased to exist provided there is no other legal impediment to such payment.

Sec. 34.

102. Section 34 has been replaced by a new section² directing the Collector to pay interests on the sum fixed by him at the rate of 5 per cent from the date of taking possession to the date on which the amount is deposited in Court or to the date on which it is paid to the person entitled to receive it.

¹ Ss. 18-919, *ibid.*

² S. 14, *ibid.*

103. Sections 35—37 which deal with temporary occupation of land have been omitted as the powers conferred by them are very limited and as such power of temporary acquisition has not frequently been availed of. Moreover, temporary possession can always be obtained by bringing into force the provisions of the Act relating to requisitioning. Secs. 35—37.

104. Section 38 is unnecessary in view of the provisions of section 4(4) and the enlarged and inclusive definition of 'public purpose' in Appendix I, and has, therefore, been omitted. Sec. 38.

105. This section deals with industrial concerns. We have provided for them in the definition section itself¹. The section has, therefore, been omitted. Sec. 38A.

106. Section 39 has been retained with the modification that where land is to be acquired for any company, no notification under sub-section (1) of section 4 shall be issued except by or with the previous consent of the appropriate Government. Sec. 39.

107. The substance of clauses (a) and (b) of sub-section (1) of section 40, dealing with the erection of dwelling houses for workmen has now been embodied in the definition section². The rest of the section has been retained with verbal changes. Sec. 40.

108. Sections 41—43 have been retained without any material change. Secs. 41—43.

109. A new section³ has been added to the effect that where land is to be acquired for any person (not being a company) or authority, the provisions relating to acquisition of land for companies shall apply.

110. Section 44 has been omitted as we consider it to be unnecessary. Sec. 44.

111. Section 45 dealing with service of notices has been omitted, as we have adopted the corresponding section in the Requisitioning and Acquisition of Immovable Property Act, 1952. Sec. 45.

112. Section 46 dealing with penalties has been retained with the change that the maximum limit of imprisonment has been enhanced to six months and of fine to five hundred rupees. Sec. 46.

¹ S. 2(c)(vii), *ibid.*

² S. 2(m)(vii), *ibid.*

³ S. 30, *ibid.*

- Sec. 47. 113. We have added a new sub-section to section 47, providing that the power conferred by the section shall not be in derogation of the power to take possession of requisitioned land under section 40 (2) of Appendix I.
- Sec. 48. 114. Section 48 has been retained with some modifications. Sub-section (3) does not apply to cases where the Collector has not taken possession and, therefore, serves no purpose and has been omitted. We have also provided that where there is a dispute as to the amount of compensation under this section, the Collector shall refer the same to the Court for decision.
- Sec. 49. 115. This section, dealing with the acquisition of a part of a house or a building, has been retained without any material change.
- Sec. 50. 116. This section has also been retained with verbal changes making it applicable to cases of acquisition for 'other person'¹. We have also provided that in proceedings under this Act for fixing or determining compensation, the local authority or company or other person concerned may appear and represent the case before the Collector, or appear and adduce evidence before the Court, as the case may be. The proviso to sub-section (2), disentitling the local authority or company from demanding a reference, has been omitted.
- Sec. 51. 117. Section 51 has been retained without any change.
118. Following section 52A of the Land Acquisition (Punjab Amendment) Act, 1948, we have added a new section² to protect the amount of compensation awarded or awardable from attachment or sale in execution of a decree or order of any civil court, when the land acquired is not liable to attachment or sale.
119. We have also added a new section³ providing that in proceedings under this Act a certified copy of a registered document may be accepted as evidence of the transaction recorded in the document without the production or proof of the original.
- Sec. 52. 120. We have adopted section 18 of the Requisitioning and Acquisition of Immovable Property Act, 1952, which gives complete immunity in respect of any act done in

¹ *Vide* S. 36, *ibid.*

² S. 70, *ibid.*

³ S. 71, *ibid.*

good faith or intended to be done in pursuance of that Act. In view of this, the provision contained in section 52 of the Land Acquisition Act can have application only to acts done in abuse of the provisions of the Act which do not deserve any protection. Section 52 has, therefore, been omitted.

121. Section 53 has been retained with verbal changes. Sec. 53.

122. We have added a new section¹ laying down the procedure to be followed in cases of references other than those under sub-section (3) of section 12 or sub-section (1) of section 45 of Appendix I.

123. Section 54 has been split into two parts². We have added two new sub-sections³ to provide (a) that no second appeal except in cases which raise questions as to the title to property for revision shall lie from a decree of the district court on appeal under sub-section (1), unless the amount or value of the subject matter in dispute exceeds two thousand rupees; and (b) that notwithstanding anything contained in the section, no appeal shall lie from any order (whether final or not) passed by the Court on a reference under sections 5, 34 and 67(1) of Appendix I. Sec. 54.

124. A new section⁴ has been added to enable the court determine any question of title for the purpose of deciding any reference under the Act.

125. The rule-making provisions in section 55 of the Land Acquisition Act have been modified and combined⁵, with the corresponding provisions in section 22 of the Requisitioning and Acquisition of Immovable Property Act, 1952.

Sec. 55.
B. Requisitioning and Acquisition of Immovable Property Act, 1952.

126. Part III of Appendix I relates to requisitioning and acquisition of land. The scheme of our proposals on this subject has been fully explained in paragraphs 33 to 35. We shall now explain them in detail with reference to the sections of the existing Act*.

Requisitioning

127. Section 1 has been omitted, as it is redundant.

Sec. 1.

¹ S. 57, *ibid.*

² S. 60(1), (3), *ibid.*

³ Sub-sections (2), (4), *ibid.*

⁴ S. 61, *ibid.*

⁵ S. 80, *ibid.*

*The references in the margin, hereafter, are to sections of the Requisitioning and Acquisition of Immovable Property Act, 1952.

Sec. 2. 128. As already mentioned earlier¹, all the expressions defined in section 2 have been incorporated in the proposed legislation except that we have omitted the definition of the term "award".

129. Sections 39 and 48 in Appendix I give effect to the views which we have expressed in para 35 above.

Secs. 3—6. 130. Sections 3 to 6 dealing with the power of requisition, the power to take possession, the rights over the requisitioned property and release from requisitioning have all been retained² with some changes. These changes provide an opportunity to the person affected to be heard before an order of requisition is made and excepts properties in the possession of tenants for six months and more from requisition. The power to requisition can be exercised only for a public purpose which is a Union or a State purpose. There is no provision in the existing law for requisitioning land on behalf of other persons or authorities as under the Land Acquisition Act and we do not consider it necessary to provide for such cases. A further change is the limit set on the value of repairs which a landlord may be required to carry out.

Sec. 7. 131. Section 7, dealing with the power to acquire requisitioned property, has been retained with some modifications. An addition has been made to the existing sub-section (2) by providing that the notice mentioned therein shall be deemed to be a declaration in respect of the requisitioning land under section 8 of Appendix I. Sub-sections (3), (4) and (5) have been omitted. These sub-sections place restrictions on the power to acquire by confining it to certain specified cases mentioned therein. But some of the State Acts do not contain such restrictions and we do not see any reason why the power to acquire should be so restricted.

Sec. 8. 132. Section 8, dealing with the principles and method of determining compensation, has been retained with certain modifications :

Sub-clauses (c), (d), (e), (f) and (g) of sub-section (1) and the reference to arbitration provided in clause (b) thereof have been omitted in view of the scheme suggested by us under which there is to be a reference to the Court in all matters.

¹ Para 59, *ante*.

² Ss. 40—43, App. I.

In sub-section (2), dealing with compensation payable for requisitioning, a new provision has been added providing for compensation for any damage caused by the exercise of the powers conferred in section 46 of Appendix I.

Sub-section (3), dealing with compensation payable in case of acquisition following requisition has been omitted for the obvious reason that under the proposed scheme this will come within the scope of Part II as will appear from section 49 of Appendix I.

133. Sections 9 and 11 have been omitted as we consider them unnecessary. We have recommended the abolition of the arbitration procedure. Sec. 9 & 11.

134. Section 10 dealing with appeals from orders of requisitioning has been retained without any substantial change. Sec. 10.

135. As stated earlier¹, the powers conferred upon the arbitrator by section 12 have been given to the Collector and the competent authority. Sec. 12.

136. Section 13 has been retained with the addition that the persons required to furnish information shall be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code. Sec. 13.

137. Section 14 has been retained and a new proviso has been added subjecting the power of entry and inspection to the condition that it cannot be exercised without a minimum notice of at least 24 hours except with the consent of the occupier and that it can not be exercised after sunset and before sun-rise. Sec. 14.

138. At present all the Requisitioning Acts (Central as well as States) are merely temporary enactments to be in force for certain specified periods. In view of the temporary nature of the legislation, it has not been deemed necessary to limit the period for which a property can remain under requisition. But as we are recommending the enactment of a law which can remain in force for an indefinite period, we think, it is reasonable to provide that a property can not be kept under requisition

¹ Para 74, ante.

for an indefinite length of time. We have, therefore, recommended¹ that no order of requisitioning shall continue in force for a period of more than 5 years, unless proceedings for acquisition of the same are commenced before the expiry of the said five years. This provision, in our view, will have the advantage of enabling the Governments to resort to requisition under the provisions of this Act whenever necessary and at the same time safeguard the rights of the citizen by providing that the requisitioning will not continue for a longer period of time than five years, during which period the Government should be in a position to decide whether the land should be released or acquired. We have also recommended that no further order of requisition shall be made in respect of the same property.

- Sec. 15. 139. Section 15, dealing with service of notice, has been retained with certain modifications. As, in our view the publication of a notice or order of a general nature in the Official Gazette may not be adequate, we have suggested that it should also be published in the newspapers in the language of the district in which the land is situate and also that copies of such notices should be affixed in prominent places on or near the land. Likewise, in clause (c) of sub-section (1), we have provided that a notice or order affecting an individual person (not being a corporation or firm) shall be served in the manner provided by the Code of Civil Procedure, 1908, for the service of summons or by sending it by registered post to the person named therein at his last known residence, address or place of business.
- Sec. 16. 140. Section 16 has been retained without any material change.
- Sec. 17. 141. Section 17, dealing with delegation of powers of requisitioning, has been retained with the addition of a new sub-section to enable the State Government to delegate its powers. Further, the State Government has been required to place such notifications before the State Legislature as the Union Government is now required to place the notifications issued by it before Parliament.
- Sec. 18. 142. Section 18, dealing with the protection of action done in good faith, has been incorporated in the proposed legislation without any material change.

¹ S. 48, App. I.

143. Section 19, ousting the jurisdiction of the Civil Court in respect of matters to be determined by the competent authority, has been retained with the addition that the Civil Court shall have no jurisdiction also in respect of matters to be determined under this Act by the appropriate Government or the Collector. The provision that no injunction shall be granted by any Court or authority in certain cases mentioned in this section has, however been omitted, as it is considered redundant. Sec. 19.

144. We have retained the penalty provisions of both the Requisitioning and the Land Acquisition Acts. Sec. 20.

145. The provision in section 20 of the Requisitioning and Acquisition of Immovable Property Act has been modified to provide for imprisonment for a term of six months or a fine up to 500 rupees or both¹.

Section 46 of the Land Acquisition Act has also been retained with a similar modification to provide for punishment in the cases of persons who wilfully destroy, damage or displace trenches etc².

We have further provided that as regards the two offences mentioned above, no Court shall take cognisance of them, except on a report in writing of the facts constituting such offences made by an officer authorised in this behalf by the appropriate Government³.

146. This section has been retained with consequential changes. Sec. 21.

147. The rule-making provisions in section 22 of the Requisitioning and Acquisition of Immovable Property Act, 1952 and section 55 of the Land Acquisition Act 1894 have been combined by us³, omitting provisions relating to any reference to arbitration. Sec. 22.

148. These sections have been omitted as we consider them unnecessary. Sec. 23-25.

149. As indicated already, we have embodied, in Appendix I, our proposals consolidating the Land Acquisition Act, 1894, and the Requisitioning and Acquisition of Immovable Property Act, 1952.

¹ S. 78, App. I.

² S. 79, *ibid.*

³ S. 80, *ibid.*

Appendix II contains two comparative Tables:—Table A shows the sections in the existing Acts with the corresponding sections in Appendix I, while Table B shows the sections in Appendix I and the corresponding sections in the existing Acts.

Appendix III contains a list of the Land Acquisition Acts now in force in the various States with the alterations made by them and a brief summary of such alterations.

Appendix IV contains a list of other Acts (Central and State) which confer power to acquire land, with a summary of such Acts.

Appendix V gives a list of the requisitioning Acts in force in the various States with a summary of their provisions and also a tabular statement showing the differences in the several Acts.

M. C. SETALVAD,

(Chairman).

M. C. CHAGLA,
K. N. WANCHOO,
P. SATYANARAYANA RAO,
N. C. SEN GUPTA,*
V. K. T. CHARI,*
D. NARASA RAJU,*
S. M. SIKRI,*
G. S. PATHAK,*
G. N. JOSHI,
N. A. PALKHIVALA.

K. SRINIVASAN
DURGA DAS BASU,
Joint Secretaries.
NEW DELHI;
The 26th September, 1958.

*Being unable to come to Delhi to sign the Report, these Members have authorised the Chairman to sign the report on their behalf.

APPENDIX I

Proposals as inserted in the body of the existing Act.

(This is not to be treated as a draft Bill).

(Corresponding sections of the existing Act are noted in the margin, and additions to the provisions of the existing Act are underlined in the text, wherever possible.)

THE ACQUISITION AND REQUISITIONING OF LAND ACT, 19

PART I—PRELIMINARY

- (1) This Act may be called the Acquisition and Requisitioning of Land Act, 19—
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on ———.

Section 1
Short title,
extent and
Commence-
ment.
[S.I.L.A.A.]

In this Act, unless the context otherwise requires,—

- (a) “appropriate Government” means, in relation to acquisition or requisitioning of land for the purposes of the Union, the Central Government, and in relation to acquisition or requisitioning of land for purposes other than those of the Union, the State Government;
- (b) “Collector” includes any officer specially appointed by the appropriate Government to perform the functions of a Collector under this Act;
- (c) “company” means—
- (i) a company formed and registered under the Companies Act, 1956;
- (ii) a company formed and registered under any previous company law for the time being in force in any part of India other than the State of Jammu and Kashmir;

Section 2.
Definitions.
“Appropriate Government”
[S. 3(ee)
L.A.A.]

“Collector”
[S. 3(c).
L.A.A.]

“Company”
[S. 3(e),
L.A.A.]
1 of 1956.

- (iii) a company formed and registered under any other law for the time being in force in the State of Jammu and Kashmir;
- (iv) a company—
- (a) incorporated under any law relating to companies for the time being in force in any foreign country, and
- (b) having its principal place of business in India;
- (v) a company incorporated by an Indian law relating to a particular company;
- 21 of 1860. (vi) a society registered under the Societies Registration Act, 1860, or under any law corresponding to that Act for the time being in force in any part of India;
- [S. 38A, L.A.A.] (vii) an industrial concern ordinarily employing ten or more workmen in a manufacturing process carried on with the aid of power, or twenty or more workmen in a manufacturing process carried on without the aid of power; and
- [New] (viii) a corporation created by or under any law for the time being in force in any part of India not being a corporation owned or controlled by the State;
- "Competent authority" [S. 2(b), R.A.] (d) "competent authority" means any person or authority authorised by the appropriate Government, by notification in the Official Gazette, to perform the functions of the competent authority under Part III for such area as may be specified in the notification;
- "Co-operative Society" [New] 2 of 1912. (e) "co-operative society" means a registered society within the meaning of the Co-operative Societies Act, 1912, or any society registered under any law corresponding to that Act for the time being in force in any part of India;
- "Court" [S. 3(d), L.A.A.] (f) "court" means a principal civil court of original jurisdiction, and includes any other civil court empowered by the State Government to perform the functions of the court

under this Act within the pecuniary and local limits of its jurisdiction;

- (g) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth; "Land" [S. 3(d), L.A.A.]
- (h) "landlord" means any person who for the time being is receiving, or is entitled to receive, or has received the rent of or premium for any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent or premium if the premises were let to a tenant; "Landlord" [S. 2(c), R.A.]
- (i) "local authority" includes a town planning authority; "Local authority" [New]
- (j) the expression "person interested" includes all persons claiming, or entitled to claim¹, an interest in compensation payable on account of the acquisition or requisitioning 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; "Person interested" [S. 3(b), L.A.A.]
- (k) "premises" means any building or part of a building and includes— "Premises" [S. 2(e), R.A.]
- (i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building;
- (ii) any fittings affixed to such building or part of building for the more beneficial enjoyment thereof;
- (l) "prescribed" means prescribed by rules made under this Act; "Prescribed" [S. 2(f), A.R.]
- (m) "public purpose" includes— "Public purpose" [S. 3(f), L.A.A.]
- (i) the provision of village sites in districts in which the appropriate Government shall have declared by notification in the Official Gazette

¹See Sec., 2 (d) R. A.

that it is customary for the Government to make such provision;

- (ii) the provision of land for planned development from public funds and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development as planned;
- (iii) the provision of land for town or rural planning under any law relating to such planning;
- (iv) the provision of land—
 - (1) for carrying out any housing scheme or health scheme sponsored by the Union Government or any State Government or a local authority, or
 - (2) for clearing slum areas, or
 - (3) for relieving congestion, or
 - (4) for housing poor, landless, or displaced persons, or persons residing in areas affected by floods:
- (v) the provision of—
 - (1) residence for any person holding an office of profit under the Central Government or accredited as a diplomatic consular or trade representative of a foreign Government.
 - (2) building for locating a public office;
- (vi) the provision of land for corporations owned or controlled by the State, or other nationalised industries or concerns;
- (vii) the provision of land for any local authority and subsequent disposal thereof in whole or in part by lease, assignment or outright sale with the object of securing further development;
- (viii) the provision of land for a company¹—
 - (a) for the erection of dwelling houses for workmen employed by the company or for the provision of amenities directly connected therewith; or

¹Cf. Sec.40(I)(a) and (b), L.A.A.

- (b) where the land is needed for the construction of some work and such work is likely to prove substantially useful to the public;
- (ix) the provision of land for a co-operative society—
 - (a) for the erection of dwelling houses for workmen employed by the co-operative society or for the provision of amenities directly connected therewith; or
 - (b) where the land is needed for the construction of some work and such work is likely to prove substantially useful to the public;
or
 - (c) where the land is needed by a building co-operative society for the construction of houses;
- (x) the provision of land for any charitable trust;

Explanation.—“Charitable trust” includes a trust established or to be established for the relief of the poor, education, medical relief or advancement of any other object of general public utility;

- (n) “tenant” means any person by whom or on whose account premium or rent is paid or payable, or both are paid or payable, for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

“Tenant”
[S. 2(h),
R.A.]

For the purposes of this Act, the following persons shall be deemed to be persons “entitled to act” as and to the extent hereinafter provided (that is to say)—

Section 3.
“Entitled to act”
[S. 3 (g)
L.A.A.]

- (a) trustees for other persons beneficially interested shall be deemed to be 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.....;

* * * * *

- (b) the guardian of minors and the committees or managers of lunatics or idiots shall be deemed respectively to be 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 to be "entitled to act" whose interest in the subject-matter is 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 proper person to act on his behalf in the conduct of the proceedings;
- (iii) the provisions of Order XXXII of the First Schedule to the Code of Civil Procedure, 1908, shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or court by a next friend, or by a person appointed under clause (ii) of this proviso in proceedings under this Act; and
- (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.

5 of 1908

PART II—ACQUISITION

CHAPTER I—PRELIMINARY INVESTIGATION AND DECLARATION.

Preliminary investigation

Section 4.
Publication
of prelimi-
nary noti-
fication and
powers of
officers
thereupon.
[S. 4(1),
L.A.A.]

(1) Whenever it appears to the appropriate Govern-
ment or the Collector that any land is needed or is likely
to be needed for any public purpose, a notification stating
the purpose for which the land is needed or likely to be
needed and describing the land by its survey number, if
any, and also by its boundaries and its approximate area,

shall be published in the Official Gazette, and the Collector shall cause—

- (a) public notice of the substance of such notification to be given at convenient places in the locality in which the land is situated, and
- (b) a copy of such notification to be served on the owner, and, where the owner is not the occupier, also on the occupier, of the land.

Explanation.—The expression “convenient places” includes, in the case of land situate in a village, the office of the Village Panchayat within whose jurisdiction the land lies.

(2) The notification under sub-section (1) shall also specify the date, (such date not being less than twenty-one days from the publication of the notification) on or before which, and the manner in which, objections to the proposed acquisition can be made, under section 6. [New]

(3) On the publication of such notification it shall be lawful for any officer, either generally or specially authorised by such Government or by the Collector in this behalf, and for his servants or workmen,— [S. 4(2) L.A.A.]

- (i) to enter upon and survey and take levels of the land;
- (ii) to dig or bore into the sub-soil;
- * * * * *
- (iii) 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;
- (iv) to mark such levels, boundaries, and line by placing marks and cutting trenches;.....
- (v) where otherwise the survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle; and
- (vi) to do all other acts necessary to ascertain whether the land is suitable for such purpose:

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.

[S. 38 (1),
L.A.A.]

(4) Where the acquisition is for a person or authority, an officer of such person or authority may be authorised by the appropriate Government or the Collector to exercise the powers conferred by sub-section (3).

[New]

(5) The officer authorised under sub-section (3) or sub-section (4) shall complete his investigation and submit his report to the Collector within a period of three months (or within such longer period, not exceeding six months in all, as the appropriate Government may allow) from the date of the publication of the notification under sub-section (1), and the Collector shall forward the report with his remarks to the appropriate Government along with his report under sub-section (2) of section 6.

Section 5.
Payment for
damage.
[S. 5, L.A.A.]

The officer ... authorised under sub-section (3) or sub-section (4) of section 4 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 court for its decision.

Objections

Section 6.
Hearing of
objections.
[S. 5, A(1),
L.A.A.]

(1) Any person may, on or before the date specified in the notification under sub-section (1) of section 4 in this behalf, object to the acquisition of the land so notified.

[S. 5A (2),
earlier part,
L.A.A.]

(2) Every objection under sub-section (1) shall be made to the Collector in writing setting out the grounds thereof, and the Collector shall give the objector an opportunity of being heard 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, submit the case for the decision of the appropriate Government, before the expiry of six weeks from the last date for filing objections or before the expiry of two weeks from the date on which he receives the report under sub-section (5) of section 4, whichever is later, together with the record of the proceedings held by him and a report containing his recommendations on the objections.....

[New]

(3) The Collector shall, on the application of the objector and at his cost, furnish him with a copy of his report.

On receipt of the report of the Collector under sub-section (2) of section 6, the appropriate Government, after giving an opportunity to the objectors of being heard either in person or by pleader, shall decide whether the land is needed for a public purpose. The decision of the appropriate Government shall be final as to the question whether the land is needed for the purpose stated in the notification under sub-section (1) of section 4

Section 7.
Decision on objections [S. 5A(2), latter part L.A.A.]

Declaration

(1) If the appropriate Government is satisfied,
.....

Section 8.
Declaration that land is required for a public purpose.

(a) that the land is needed for a public purpose; and

(b) that it is suitable for the purpose for which it is intended to be acquired;

[S. 6(1), main para part, L.A.A.]

.....it shall, within six weeks from the date of receipt of the report of the Collector under sub-section (2) of section 6, direct the Collector to proceed under sub-section (2).

* * * * *

(2) The Collector shall, thereupon, within two months from the date on which he receives such direction,—

[S. 8, L.A.A.]

(a) cause the land (unless it has been already marked out under section 4) to be marked out;

(b)also cause it to be measured, and, if no plan has been made thereof, a plan to be made of the same; and

(c) report to the appropriate Government the result of his operations under this sub-section.

(3) The appropriate Government shall then, within one month from the receipt of the report of the Collector under sub-section (2), make a declaration that the land is needed for a public purpose. The declaration shall be published in the Official Gazette and shall specify—

[S. 6(1), main para, part, L.A.A.]

(i) the land, with its precise boundaries, and survey number, (if any) its approximate area, and.... the place where a plan of the land may be inspected; and

[S. 6(2), L.A.A.]

(ii) the public purpose for which the land is needed

[S. 7, L.A.A.]
[S. 16 earlier part, L.A.A.] (4) The Collector shall thereupon take order for the acquisition of the land and shall, within a period of two months or within such longer period, not exceeding four months in all, (as the appropriate Government may allow from the date of the declaration, taken possession of the land after giving reasonable notice to the persons interested in the land.

[New] (5) Land not included in the declaration under this section but included in the notification under sub-section (1) of section 4 shall, as from the date of the declaration, stand released from the notification; and the notification shall be deemed to be cancelled to that extent.

[New] (6) If the appropriate Government decides to abandon the acquisition of the land, it shall issue a notification to that effect and cancel the notification issued under sub-section (1) of section 4.

CHAPTER II

TAKING POSSESSION, AND OTHER PROCEEDINGS BY COLLECTOR.

Section 9,
Vesting of
land,
[S. 16 latter
part, L.A.A.] (1) When the Collector takes possession of the land specified in the declaration issued under section 8, it shall vest absolutely in the Central Government or the State Government, as the case may be, free from all encumbrances.

[New] (2) The fact of such taking possession and vesting shall be forthwith notified by such Government in the Official Gazette, and such notification shall be evidence of the title of such Government to the land.

Section 10,
Notice to
persons
interested,
[S. 9(1),
L.A.A.] (1) When a declaration under section 8 is published, the Collector shall cause public notice to be given stating that.....claims to compensation for all interests in such land shall be made to him.

[S. 9. (2),
part,
L.A.A.] (2) Such notice shall state the particulars of the land acquired, 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,..... the amount and particulars of their claims to compensation for such interests, the basis on which the compensation so claimed is computed.....

their objections, if any, to the area as specified in the declaration, and such other matters as may be prescribed.

(3) The statements shall be made in writing in the prescribed form and shall be signed by the party or his agent. [S. 9(2), part, L.A.A.]

(4) 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. Such notice shall be served at least fifteen days before the date on which the persons concerned are to appear and state their respective interests before the Collector. [S. 9(3), L.A.A.]

(5) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by registered post in a letter addressed to him at his last known residence, address or place of business. [S. 9(4), L.A.A.]

(1) The Collector may also by notice 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 service of the notice, 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 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 preceding the date of the statement. Section 11, Power to require and enforce the making of statements as to names and interests [S. 10, L.A.A.]

(2) Every person required to make or deliver a statement under this section or section 10 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

45 of 1860

Fixation of Area and Value

(1) On the day so fixed, or on any other day to which the proceedings may be adjourned, and after consultation with the appropriate Government, and, if the acquisition is made for purposes other than those of the Government, also with the person or authority for which the acquisition is made, and after calling for such information from the claimants as he thinks necessary, the Collector shall— Section 12 Proceedings by Collector, [S. 11 L.A.A.]

(a) fix, by agreement with all the persons referred to in clause (b) the true area of the land, the

compensation... to be allowed for the land and the person entitled to receive the same;

- (b) also ascertain whether 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, are agreed as to the apportionment of the said compensation among themselves.

[New]

(2) If an agreement is arrived at under clause (a) or (b) of sub-section (1) on any of the matters mentioned in that clause, the Collector shall record such agreement obtain the signatures of the parties and make an order in accordance with such agreement, under his hand. A copy of such order shall be furnished free of cost to any person interested in the land who applies for the same.

[New]

(3) In so far as an agreement is not arrived at under clause (a) and (b) of sub-section (1) on any of the matters mentioned in that clause, the Collector shall—

- (a) refer such matter or matters for the determination of the court and inform the parties of the same immediately;
- (b) fix, on the basis of the true area of the land as determined by him, the compensation which in his opinion should be allowed for the land; and
- (c) fix the manner of apportionment of the said compensation among the claimants, where such apportionment is needed.

[S. 15, L.A.A.]

(4) In fixing the amount of compensation, the Collector shall be guided by the provisions contained in sections 21 and 22.

Section 13.
Payment of compensation or deposit of sum in court.
[S. 31(1) L.A.A.]

(1) On making an order under sub-section (3) of section 12, the Collector shall, subject to the provisions of sub-section (2), within one month from the date of the order, tender payment of the compensation fixed by him to the persons interested entitled thereto..... and.... pay it to them.....

[S. 31(2), main para, L.A.A.]

(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, and give notice of such deposit to the persons interested entitled to the amount.

* * *

On the sum fixed by the Collector under clause (b) of sub-section (3) of section 12, as reduced by the amount, if any, paid or deposited under clause (c) of section 33, the Collector shall pay...interest..at the rate of five per centum per annum from the date of...taking possession of the land to the date on which the sum is deposited in court, or, if the sum is not so deposited, then to the date on which it is paid by the Collector to the person entitled to receive the same.

Section 14.
Interest on amount fixed by Collector, [S' 34, L.A. A.]

(1) If there is agreement on all the matters referred to in clauses (a) and (b) of sub-section (1) of section 12, the amount fixed by the agreement shall be paid by the Collector to the persons interested in accordance therewith within one month from the date of the order recorded under sub-section (2) of section 12.

Section 15.
Payment in case of agreement. [New]

(2) In default of such payment, the order of the Collector may be executed as if it were a decree of a civil court of the lowest grade which would be competent to try a suit for the recovery of the land.

(3) Interest on the amount referred to in sub-section (1) shall be paid by the Collector at the rate of five per centum per annum from the date of taking possession of the land to the date of payment under sub-section (1) or realisation by execution under sub-section (2), as the case may be, and shall be deemed to be included in his order.

Where the Collector does not, within the period specified in sub-section (4) of section 8, take possession of the land, the date on which the said period expires shall, for the purposes of sections 14 and 15, be deemed to be the date on which possession of the land is taken by the Collector.

Section 16.
Interest in cases where possession not taken within specified time. [New]

(1) Notwithstanding anything in sub-section (1) of section 15, 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,

Section 17.
Compensation in kind, [S. 31 (3), L.A.A.]

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.

[S. 31(4),
L.A.A.]

(2) Nothing in sub-section (1) 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 competent to contract in respect thereof, including, in particular, an arrangement for the grant of other lands in exchange.

Section 18.
Completion
of proceedings.
[New]

(1) All the proceedings that are necessary to be taken under this Act from the date of the issue of the notification under sub-section (1) of section 4 to the date fixed for the first hearing under sub-section (2) of section 10 shall be completed within a period of eight months, unless the appropriate Government, for reasons to be recorded in writing, extends the time by a further period not exceeding four months.

(2) The Collector shall complete all proceedings under section 12 (including the making of any order under sub-section (2) or a reference under sub-section (3) of that section) within four months from the date fixed for the first hearing under sub-section (2) of section 10.

Section 19.
When notification under section 4 deemed to be cancelled.
[New]

If, within the period specified in sub-section (1) or sub-section (2) of section 18, the proceedings are not completed, the notification under sub-section (1) of section 4 shall stand cancelled, and the persons interested in the land shall, if possession of the land has been taken by the Collector, be entitled to apply to the court for an order against the Collector for:—

- (a) restoration of possession in accordance with their respective interests, and
- (b) payment of such compensation as the court may determine.

Reference to court

Section 20,
Collector's statement to the court.
[S. 19,
L.A.A.]

(1) In making a reference under sub-section (3) of section 12, the Collector shall state for the information of the court, in writing.....

- (a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon, attaching a plan of the land;

- (b) the names of the persons who, he has reason to believe, are interested in such land; and
- (c)the amount of compensation fixed by him under sub-section (3) of section 12 and the basis on which it was arrived at.
.....

(2) To the said statement shall also be attached a schedule giving ...particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively, and any other information available with the Collector relating to the matters referred to the court.

CHAPTER III

PRINCIPLES FOR THE DETERMINATION OF COMPENSATION

(1) In determining the amount of compensation to be awarded for land acquired under this Act, the court shall take into consideration—

Section 21,
Matters to
be consider-
ed in
determining
compensa-
tion,
[S. 23,
L.A.A.]

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

secondly, 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;

thirdly, 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;

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 or business, the reasonable expenses (if any) incidental to such change;.....

sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the notification under sub-section (1) of section 4 and the time of the Collector's taking possession of the land; and

seventhly, if it be shown that before the date of the publication of the notification under sub-section (1) of section 4 the owner of the land had in good faith taken active steps and incurred expenditure to secure a more profitable use of the same, the expenditure so incurred.

(2) In addition to the market value of the land as above provided, the court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.

Section 22,
Matters to
be neglected
in determin-
ing com-
pensation.
[S. 24,
L.A.A.]

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 8, 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;.....

seventhly, any outlay or 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 notification under sub-section (1) of section 4, unless,

in the case of improvements, such improvements were necessary for the maintenance of any building in a proper state of repair; or eighthly, where the market-value of the land acquired is increased by reason of the use thereof in a manner which could be restrained by any court or is contrary to law or is detrimental to the health of the inmates of the premises or to public health, the amount of that increase.

CHAPTER IV

INVESTMENT OF MONEYS DEPOSITED

(1) If any money is deposited in court under section 55, or where any money is deposited in court under sub-section (2) of section 13 and it appears that the land in respect whereof the same was awarded belonged to a 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
- (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) Where, by virtue of the provisions of clause (b) of sub-section (1), any money is required to be invested in the purchase of securities referred to therein, and, before the money is so invested, any person or persons become absolutely entitled thereto, the court may, notwithstanding anything contained in sub-section (1), pay such money to such person or persons.

Section 23
Investment
of money
deposited
in respect of
amounts be-
longing to
persons in
competent
to alienate.
[S. 32(1),
L.A.A.]

[New]

[S. 32(2)
L.A.A.]

(3) 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.

Section 24,
Investment
of money
deposited in
other cases,
[S. 33,
L.A.A.]

(1) When any money shall have been deposited in court under this Act for any cause other than that mentioned in section 23, 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 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.

[New]

(2) The court may pay any such money or transfer the securities in which it is invested to the person entitled thereto if the cause for which the money was deposited has ceased to exist and if there be no other legal objection to such payment or transfer.

CHAPTER V

ACQUISITION OF LAND FOR COMPANIES AND OTHER PERSONS AND AUTHORITIES

Where land is to be acquired for any company—

- (a) no notification under sub-section (1) of section 4 shall be issued except by, or with the previous consent of, the appropriate Government; and
- (b) the provisions of sections 8 to 20, or of Chapter IV or Chapter VI of this Part, or of Part IV, shall not be put in force...except with the previous consent of the appropriate Government, and

Section 25,
Previous
consent of
appropriate
Government
and
execution of
agreement
necessary.
[S. 39,
L.A.A.]

unless the company shall have executed the agreement hereinafter mentioned.

(1) Such consent shall not be given unless the appropriate Government be satisfied, either on the report of the Collector under sub-section (2) of section 6 or by any enquiry held by such officer and at such time and place as the appropriate Government shall appoint, that the purpose of the acquisition is a public purpose of the category specified in item (viii) of clause (m) of section 2.

Section 26
Previous
enquiry,
[S. 40(1),
and 40(2),
L.A.A.]

(2) Such officer may summon and enforce the attendance of witnesses and compel production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure, 1908, in the case of a civil court.

[S. 40(3),
L.A.A.]

5 of 1908.

If the appropriate Government is satisfied..... that the purpose of the proposed acquisition is a public purpose of the category specified in item (viii) of clause (m) of section 2, it shall, before issuing a declaration under section 8, require the company to enter into an agreement with the appropriate Government, providing to the satisfaction of the appropriate Government for the following matters, namely:—

Section 27
Agreement
with
appropriate
Govern-
ment.
[S. 41,
L.A.A.]

- (1) the payment to the appropriate Government of the cost of 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;
- (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; 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.

Section 28,
Publication
of agree-
ment.
[S. 42
L.A.A.]

Every such agreement shall, as soon as may be after its execution, be published in the 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 effort as if it had formed part of this act.

Section 29. The provisions of sections 25 to 28, both inclusive, shall
 Certain sections not to apply where Government bound by agreement to provide land for companies.
 [S. 43, L.A.A.] not apply to the acquisition of land for any Railway or other company, for the purposes of which, under any agreement with such company,.....the Central Government or any State Government is bound to provide land.

Section 30. The provisions of sections 25 to 28 shall, *mutatis mutandis*, apply where land is to be acquired for any person (not being a company), or authority.
 Acquisition of land for other persons or authorities.
 [New]

CHAPTER VI

TAKING POSSESSION WITH CONSENT OR IN URGENT CASES.

Section 31. The Collector may, at any time after the issue of a notification under sub-section (1) of section 4, take possession of the land so notified, if the persons interested in the land express in writing their willingness to surrender possession of the land and waive their right to object to the acquisition of the land.
 Taking possession with consent
 [New]

Section 32. (1) Whenever, owing to any sudden change in the channel of any.....river or other unforeseen emergency, it becomes necessary—
 Special powers in cases of urgency.
 [S. 17(2) main para, part, L.A.A.]

(a) 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 riverside or a ghat station, or of providing convenient connection with or access to any such station; or

(b) for the Government to acquire immediate possession of any land for the purpose of maintaining road communications or traffic over roads or repairing breaches in channels, river bunds or tanks or maintaining irrigation or water supply or drainage;

the Collector may, even before a notification under sub-section (1) of section 4 has been issued.....enter upon and take possession of such land.....

Provided that the Collector shall not take possession of any building or part of a building under this section without giving 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. [S. 17(2), prov., L.A.A.]

(2) The collector shall immediately report to the appropriate Government the fact of such taking possession and the reasons therefor. The appropriate Government shall then, within two months of the receipt of such report, notify in the Official Gazette whether the acquisition of the land under the provisions of this Act should or should not be proceeded with. [New]

(3) If within four months of the date on which possession of the land is taken by the Collector, the appropriate Government does not notify in the Official Gazette whether the acquisition of the land under the provisions of this Act should or should not be proceeded with, then, notwithstanding anything contained in sub-section (2), the persons interested may apply to the court for an order against the Collector for— [New]

- (a) restoration of possession in accordance with their respective interests, and
- (b) payment of such compensation as the court may determine.

Where possession of any land is taken under section 31 or section 32, the following provisions shall apply:—

- (a) if the appropriate Government withdraws from the acquisition of the land, compensation shall be paid in accordance with the provisions of sub-section (2) of section 37;
- (b) if the acquisition of the land is proceeded with, the land shall vest absolutely in the appropriate Government free from all encumbrances on the publication of a declaration in respect of the land under section 8; and
- (c) the Collector shall, at the time of taking possession, pay or offer to each person interested, as interim compensation for the acquisition of the land, an amount not exceeding sixty per centum of the amount which, on a preliminary estimate, the person concerned would, in the opinion of the Collector, be entitled to claim for the acquisition

Section 33,
Special provisions regarding land taken possession of under this chapter.
[New]

of the land; and if the amount so offered is not accepted, the Collector shall deposit it in the court.

Section 34,
Payment of
compensa-
tion for
crops and
trees,
[S. 17(3),
L.A.A.]

Where possession of any land is taken under section 32, the Collector shall, at the time of taking possession, pay or 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 dis-possession and not except in section 22; and, in case of dispute as to the sufficiency of the amount so paid or offered, he shall at once refer the dispute to the court for decision.

CHAPTER VII

GENERAL PROVISIONS RELATING TO ACQUISITION

Section 35,
Waiver of
claim for
compensa-
tion.
[New]

When a person interested in any land and competent to contract in respect thereof, at any stage of the proceedings for the acquisition of land, states in writing before the Collector or before the court, as the case may be, that he gives up his claim to compensation in respect of the land, he shall be deemed to have received and given a valid discharge of such compensation for the land as would otherwise have been paid.

Section 36,
Acquisition
of land at
cost of a
local autho-
rity or com-
pany or other
person.
[S. 50,
L.A.A.]

(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 or other person, the charges of and incidental to such acquisition shall be defrayed from or by such fund or company or other person.

(2) In any proceeding held under this Act in such cases, the local authority or company or other person concerned may.....for the purpose of fixing or determining the amount or compensation—

(a) appear and represent its case before the Collec-tor, or

(b) appear and adduce evidence before the court, as the case may be.

Section 37,
Completion
of acquisi-
tion not
compulsory,
but compen-
sation to be
awarded
when not
completed.
[S. 48, L.A.A.]

(1)The appropriate Government shall be at liberty to withdraw from the acquisition of any land before a declaration under section 8 has been issued, and shall, in every such case, cancel the notification issued under sub-section (1) of section 4 in respect of the land.

(2) Whenever the appropriate 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) In case of dispute as to the amount of such compensation, the Collector shall refer the same to the court for decision.

Where a person receives or withdraws any amount paid or deposited as compensation for the acquisition of land under this Act, his rights shall not be prejudiced merely by reason of the fact that he received or withdrew the amount without protest.

Section 38,
Acceptance
of money
without pro-
test not to
bar rights.
[New]

PART III—REQUISITIONING, AND REQUISITIONING FOLLOWED BY ACQUISITION

The provisions of this Part shall apply only if the appropriate Government issues a notification in the Official Gazette applying this Part to the whole or part of its territory.

Sec. 39,
Applications
of Part III,
[New]

(1) Where the competent authority is of opinion that any land is needed or likely to be needed for any public purpose, being a purpose of the Union or of a State, and that the land should be requisitioned, the competent authority—

Section 40,
Power to re-
quisition
land.
[S. 3, R.A.]

(a) shall call upon the owner or any other person who may be in possession of the land by notice in writing (specifying therein the purpose of the requisition) to show cause, within fifteen days of the date of the service of such notice on him, why the land should not be requisitioned; and

(b) may, by order, direct that neither the owner of the land nor any other person shall, without permission of the competent authority, dispose of, or structurally alter, the land or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the land or in possession thereof, and after giving an opportunity of being heard either in person or by pleader, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order

in writing, requisition the land and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no land or part thereof—

- (a) which is bona fide used by the owner thereof or a beneficiary under a private trust as the residence of himself or his family, or
- (b) which is exclusively used either for religious worship by the public or as a school, hospital, public library or an orphanage or for the purpose of accommodation of persons connected with the management of such place of worship or such school, hospital, library or orphanage, or,
- (c) which is in the occupation of a tenant who has actually resided there for a continuous period of six months or more before the date of the notice under sub-section (1), shall be requisitioned:

Provided further that where the requisitioned land consists of premises which are being used as a residence by a tenant for not less than two months immediately preceding the date of the service of notice under sub-section (1), the competent authority shall provide such tenant with alternative accommodation which, in its opinion, is suitable.

Section 41,
Power to
take possession
of requisitioned
land.
[S. 4, R.A.]

(1) Where any land has been requisitioned under section 40, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within thirty days of the service of the notice.

(2) If any person refuses or fails to comply with any order made under sub-section (1), the competent authority may take possession of the land and may, for that purpose, use such force as may be necessary.

Section 42,
Rights over
requisitioned
land.
[S. 5, R.A.]

(1) All land requisitioned under section 40 shall be used for such purposes as may be mentioned in the notice of requisition.

(2) Where any premises are requisitioned under section 40, the competent authority may order the landlord

to execute such repairs, the cost of which does not exceed one-sixth of the annual rental value, as may be necessary and are usually made by landlords in that locality and as may be specified in the notice, within such reasonable time as may be mentioned therein, and if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost of thereof, not exceeding one-sixth of the annual rental value, may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

(1) The appropriate Government may, at any time, release from requisition any land requisitioned under this Part and shall, as far as possible, restore the land in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force:

Section 43,
Release from
requisition-
ing.
[S. 6, R.A.]

Provided that where the purposes for which any requisitioned land was being used cease to exist, the appropriate Government shall, unless the land is acquired under section 49, release that land, as soon as may be, from requisition.

(2) Where any land is to be released from requisition the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the land shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successors-in-interest of such person.

(3) The delivery of possession of the land to the person specified in an order under sub-section (2) shall be a full discharge of the appropriate Government from all liability in respect of the land, but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is given.

(4) Where any person to whom possession of any requisitioned land is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the land is released from requisition to be affixed

on some conspicuous part of the land and shall also publish the notice in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof, and the appropriate Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

(6) Where any land requisitioned under this Part or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood, or violence of any army or of a mob or other irresistible force, the requisition shall, at the option of the appropriate Government, be void:

Provided that the benefit of this sub-section shall not be available to the appropriate Government where the injury to such land is caused by any wrongful act or default of that Government.

Section 44,
Easement
not to be
disturbed
[S. 16, R.A.]

No person interested in any land requisitioned..... under this Part shall, without the previous written consent of the competent authority or except for the purposes of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such land or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the land.

Section 45,
Principles
and methods
of determining
compensation
for requisitioning.
[S. 8(1),
R.A.]

(1) Where any land is requisitioned.....under this Part, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

- (a) where the amount of compensation can be fixed by agreement between the competent authority and the persons interested, it shall be paid in accordance with such agreement;
- (b) where no such agreement can be reached, the competent authority shall refer the matter to the court for decision.

(2) The amount of compensation payable for the requisitioning of any land shall consist of—

- (a) a recurring payment, in respect of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the land, if it had been taken on lease for that period; and
- (b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely:—
 - (i) pecuniary loss due to requisitioning;
 - (ii) expenses on account of vacating the requisitioned premises;
 - (iii) expenses on account of re-occupying the premises upon release from requisition;.....
 - (iv) damage (other than normal wear and tear) cause to the land during the period of requisition, including the expenses that may have to be incurred for restoring the land to the condition in which it was at the time of requisition; and
 - (v) compensation for any damage caused by acts done in exercise of the powers conferred by section 47.

(1) Any person aggrieved by an order of requisition made by the competent authority under sub-section (2) of section 40 or an order under sub-section (2) of section 42 may, within twenty one days from the date of service of the order, prefer an appeal to the appropriate Government: Section 46,
Appeals from
orders of re-
quisitioning
[S. 10, R.A.]

Provided that the appropriate Government may entertain the appeal after the expiry of the said period of twenty-one days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appropriate Government may, after calling for a report from the competent authority and giving an opportunity

to the parties of being heard and after making such further inquiry, if any, as may be necessary, pass such order as it thinks fit and the order of the appropriate Government shall be final.

(3) Before hearing the appeal the appropriate Government shall furnish the appellant with a copy of the report referred to in sub-section (2), on his application and at his cost.

(4) Where an appeal is preferred under sub-section (1), the appropriate Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

Section 47. Powers to enter, and inspect, and mark boundaries etc. [S. 14, R.A.] The competent authority, or any officer empowered in this behalf by the competent authority by general or special order, may for the purposes of determining whether, and if so, in what manner, an order under this Part should be made in relation to any land or with a view to securing compliance with an order made under this Part, exercise any of the powers referred to in sub-section (3) of section 4:

Provided that no person shall enter any land under this section—

- (a) (unless with the consent of the occupier thereof) without giving such occupier at least twenty-four hours' notice of his intention to do so, or
- (b) after sunset and before sunrise.

Section 48. Duration of requisition [New] (1) No order of requisitioning under this Part shall continue in force beyond a period of five years from the date on which possession of the requisitioned land is taken under section 41, and thereafter no further order of requisition shall be made in respect of the same land.

(2) Where proceedings for the acquisition of the land are, before the expiry of the said period, initiated under the proviso to sub-section (1) of section 49, the order of requisitioning may, notwithstanding anything in this section, continue in force beyond the said period until—

- (a) the land, is as a result of such proceedings, acquired by a notice under the said sub-section, or
- (b) the proceedings for acquisition are dropped, as the case may be.

(1) Where any land is subject to requisition, the appropriate Government may, if it is of opinion that it is necessary to acquire the land for a public purpose, at any time acquire such land by publishing in the Official Gazette a notice to the effect that the appropriate Government has decided to acquire the land in pursuance of this section:

Section 49,
Power to
acquire
requisitioned
land,
[S. 7(1),
R.A.]

Provided that before issuing such notice, the appropriate Government shall call upon the owner of, or any other person who, in the opinion of the appropriate Government, may be interested in such land to show cause why the land should not be acquired; and after considering the cause, if any, shown by any person interested in the land and after giving the parties an opportunity of being heard the appropriate Government may pass such orders as it deems fit.

(2) When a notice as aforesaid is published in the Official Gazette,—

[S. 7(2),
R.A.]

- (a) the requisitioned land shall, on and from the date on which the notice is so published, vest absolutely in the appropriate Government free from all encumbrances and the period of requisitioning of such land shall end;
- (b) the notice shall, for the purposes of this Act, be deemed to be a declaration under section 8 in respect of the requisitioned land.

Where any land subject to requisition is acquired under section 49, the provisions of this Act relating to acquisition of land shall, so far as may be and in so far as they are not inconsistent with the provisions contained in this Part, apply in respect of such acquisition, subject to such modifications as may be necessary, including, in particular, the following:—

Section 50,
Provisions
applicable to
acquisition
of requisitioned
land,
[New]

- (a) references in sections 21 and 22 to the notification under sub-section (1) of section 4 shall be construed as references to the notice published under section 49; and
- (b) references in any provision of this Act to the date of taking possession by the Collector of land acquired shall be construed as references to the date on which the said notice is published.

PART IV—PROCEDURE TO BE FOLLOWED BY
THE COURT

References under section 12

Section 51,
Service of
notice.
[S. 20,
L.A.A.] The court shall, on receipt of the reference by the Collector under sub-section (3) of section 12, cause a notice specifying the day on which the court will proceed to determine the reference, and directing their appearance before the court on that day, to be served on the following persons, namely:—

- (a) the Collector;
- (b) all persons interested in the reference; and
- (c) if the acquisition is not made for the Central Government or any State Government, the person or authority for whom it is made.

Section 52,
Restriction
on amount
to be award-
ed by court,
[S. 25(1),
L.A.A.] (1) When a person interested has made a claim to compensation, pursuant to a notice given under section 10, the amount awarded to him by the court shall not exceed the amount so claimed or be less than the amount fixed by the Collector under sub-section (3) of section 12.

[S. 25(2),
part,
L.A.A.] (2) When a person interested has refused to make such claim. the amount awarded to him by the court shall in no case exceed the amount fixed by the Collector.

[S. 25(2),
L.A.A.] (3) When a person interested has omitted for a sufficient cause established to the satisfaction of the court, to make such claim, the amount awarded to him by the court shall not be less than, and may exceed, the amount fixed by the Collector.

[S. 25(2),
part,
L.A.A.] (4) When a person interested has omitted without sufficient cause so established to make such claim, the amount awarded to him by the court shall in no case exceed the amount fixed by the Collector.

Section 53,
Interest,
[S. 28,
L.A.A.] (1) If the amount of compensation as determined by the court is in excess of the sum which the Collector fixed as compensation, the final order of the court may direct that the Collector shall pay interest on such excess at the rate of five per centum per annum from the date on which he took possession of the land to the date of payment of such excess.

[New] (2) Interest payable by the Collector under section 14 shall also be included in the final order.

(1) Where there are several persons interested in the amount of compensation, the court shall apportion the amount according to the interest of each such person, and shall specify in the final order the amount due to each.

Section 54
Apportionment of compensation, [S. 29, L.A.A.]

(2) Each such person shall be entitled to obtained execution of the final order to the extent of the amount due to him, without the consent or concurrence of the other persons.

Where there is no person competent to alienate the land acquired, the Collector shall, within four months from the final order of the court, deposit in court the amount directed by the order to be paid as compensation.

Section 55.
Deposit of amount awarded where there is no person competent to alienate [New]

Reference under section 45

The provisions of sections 51, 54 and 55 shall, so far as may be and subject to necessary modifications, apply in respect of a reference under clause (b) of sub-section (1) of section 45 as they apply in respect of a reference under sub-section (3) of section 12.

Section 56.
References about compensation for requisitioning. [New]

Other References

Where any matter is referred to the court for decision under any provision of this Act other than sub-section (3) of section 12 or clause (b) of sub-section (1) of section 45, the following provisions shall apply—

Section 57.
Procedure in other references under the Act. [New]

(a) the officer making the reference shall—

- (i) state for the information of the court in writing the points on which the decision of the court is sought and the views of the officer thereon, with reasons therefor; and
- (ii) attach a summary of all material available with him which may be useful to the court in the determination of the reference;

(b) the court shall, on receipt of the reference, cause a notice specifying the day on which the court will proceed to determine the reference and directing their appearance before the court on that day, to be served on the following, namely:—

- (i) the officer making the reference;
- (ii) all persons interested in the reference; and

- (iii) where the reference has arisen out of any proceeding for the acquisition of land for any person or authority, that person or authority.

General provisions

Section 58,
Form of
final order,
[S. 26 [1],
L.A.A.]

(1) Every final order of the court under this Act shall be in writing signed by the Judge, and shall specify the points for decision, and the decision thereon, together with the grounds of the decision.

[S. 26[2]
L.A.A.]

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

5 of 1968

[S. 27 [1],
L.A.A.]

(3) Every such order shall also state the amount of costs incurred in the proceedings before the court, and by what persons and in what proportions they are to be paid.

S. 27[2],
L.A.A.]

(4) When, in proceedings held on a reference made by an officer, the order of such officer is not upheld, the costs shall ordinarily be paid by such officer, unless the court shall be of opinion that the claim of the party was so extravagant or that he was so negligent in putting his claim before such officer that some deduction from his costs should be made or that he should pay a part of the officer's costs.

[New]

(5) Where the final order determines the amount of compensation under section 21, the court shall, wherever practicable, state therein separately the market value of the following items, namely—

- (i) land, exclusive of things attached to the earth or permanently fastened to anything attached to the earth;
- (ii) buildings;
- (iii) structures other than buildings;
- (iv) trees; and
- (v) other items.

Section 59.
Execution
of final
order.
[New]

Every final order of the court under this Act shall be executable as if it were a decree of the court, and the

provisions of the Code of Civil Procedure, 1908, relating to execution shall, as far as may be, apply to it: 5 of 1908

Provided that execution shall not be issued on any such order against the Government or any officer thereof unless it remains unsatisfied for a period of three months computed from the date of such order.

(1) Subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees, an appeal shall...lie from the final order of the court in any proceedings under this Act...to the court authorised to hear appeals from the decisions of that court..... Section 60. Appeals in proceedings before court. [S. 54, earlier half, L.A.A.] 5 of 1908.

(2) From any decree of a district court passed on an appeal under sub-section (1) an appeal shall lie to the High Court if, but only if, the amount or value of the subject-matter in dispute in appeal exceeds two thousand rupees or the case involves any question of title to land. [New]

(3)From any decree of the High Court passed on an appeal under sub-section (1) an appeal shall lie to the Supreme Court subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908, and in Order XLV of the First Schedule thereto. [S. 54, later half, L.A.A.] 5 of 1908

(4) Notwithstanding anything contained in this section, no appeal shall lie from any order (whether a final order or not) passed by the court on a reference under section 5, section 34, or the second proviso to sub-section (1) of section 68. [New]

The court may, for the purpose of deciding any reference under this Act, determine any question of title. Section 61. Determination questions of title.

Every proceeding before the court under this Act 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. [New] Section 62. Proceedings to be in open court. [S. 22 L.A.A.]

.....The provisions of the Code of Civil Procedure, 1908, shall, save in so far as they are inconsistent with, anything contained in this Act, apply to all proceedings before the court under this Act. Section 63. Code of Civil procedure, to apply to proceedings before court [S. 53, L.A.A.] 5 of 1908

PART V—MISCELLANEOUS

The Collector or the competent authority,..... while holding any inquiry or.....proceeding under this Act, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commissions for examination of witnesses.

Section 65,
Power to
obtain in-
formation.
[S. 13 R.A.]

The appropriate Government, the Collector or the competent authority, or any officer authorised to perform any functions under this Act, may, with a view to carrying out the purposes of this Act, by order require any person to furnish such officer, as may be specified in the order, such information in his possession as may be specified relating to any land which is acquired or requisitioned.....or intended to be acquired or requisitioned..... under this Act, and such person shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code.

45 of 1869

Section 66.
Service of
notices and
orders.
[S.S. 15 [1],
R.A.]

(1) Subject to the provisions of this sections and any rules that may be made under this Act, the mode of service of notices and orders issued or made under this Act shall, except as otherwise provided in this Act, be as follows:—

- (a)a notice or order of a general nature on affecting a class of persons shall be published—
 - (i) in the Official Gazette, or in newspapers in the language of the district in which the land concerned is situate, and
 - (ii) by affixing copies of such notice or order in prominent places on or near the land concerned;
- (b)a notice or order affecting an individual corporation or firm shall be served in the manner provided for the service of summons in

Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908; and 5 of 1908

(c) a notice or order affecting an individual person (not being a corporation or firm), shall be served in the manner provided for the service of summons by the Code of Civil Procedure, 1908, or by sending it by registered post in a letter addressed to the person named therein at his last known residence, address or place of business. 5 of 1908.

(2) Where the ownership of the land is in dispute or where the persons interested in the land are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Official Gazette, and, where possible, by affixing a copy thereof on any conspicuous part of the land to which it relates. [S. 15(2). R.A.]

(1) If the Collector, or the competent authority or any person authorised for the purpose by either of them, 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, or competent authority or such person, as the case may be. Section 67 Magistrate to enforce surrender. [S. 47. L.A.A.]

(2) The power conferred by this section is in addition to and not in derogation of that conferred by sub-section (2) of section 41.

(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 desires that the whole of such house, manufactory or building shall be acquired: Section 68. Acquisition of part of house or building. [S. 49. L.A.A.]

Provided that the owner may, at any time before steps for the fixation of compensation for the acquisition are taken, 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 clause thirdly of sub-section (1) of section 21, by a person interested, on account of the severing of the land to be acquired from his other land, the appropriate Government is of opinion that the claim is unreasonable or excessive, it may, at any time before steps for the fixation of the compensation for the acquisition are taken, 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 provided for in sub-section (2), no fresh declaration or other proceedings under sections 8 to 11 (both inclusive), shall be necessary; but the Collector, shall, without delay, furnish a copy of the order of the appropriate Government to the person interested, and the Collector, shall thereafter proceed to fix the compensation under section 12.

Section 69,
Exemption
from stamp
duty and
fees.
[S. 51.
L.A.A.]

No order or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such order or agreement shall be liable to pay any fee for a copy of the same.

Section 70
Protection
of compen-
sation.

Where any compensation is awarded or awardable under this Act in respect of the acquisition of any land which is not liable under the law for the time being in force to attachment or sale in execution of a decree or order of any civil court, then the following provisions shall apply:—

[New]

- (a) such compensation, before or after it is actually paid to the person entitled to receive the same,

shall be exempt from seizure or attachment by process of any court—

- (i) at the instance of a creditor, for any demand against a person entitled to such compensation, or
- (ii) in satisfaction of a decree or order of any court; and
- (b) notwithstanding anything to the contrary in any law for the time being in force, neither the official assignee nor the official receiver appointed under any law relating to insolvency shall be entitled to proceed against or to have any claim on any such compensation.¹

In any proceeding under this Act, a certified copy of a registered document (including a copy given under section 57 of the Indian Registration Act, 1908) may be accepted as evidence of the transaction recorded in the document, without necessity of production or proof of the original.

Section 71.
Proof by certified copies [New] 16 of 1908

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything.....in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Section 72,
Protection of action taken in good faith. [S. 18, R.A.]

(2) Subject to the other provisions of this Act no suit or other legal proceeding shall lie against the appropriate Government, the Collector or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

.....Nothing contained in this Act shall affect the liability of any person, who may receive or withdraw the whole or any part of any compensation paid or deposited under this Act, to pay the same to the person lawfully entitled thereto.

Section 73
Liability of person receiving compensation not affected. [S. 31(2), 3rd Prov. L.A.A.]

Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the appropriate Government, the competent authority or the Collector is empowered by or under this Act to determine.....

Section 74.
Bar of Jurisdiction of Civil courts [S. 19 R.A.]

¹ Cf. section 52A as inserted by the Land Acquisition (Punjab Amendment) Act, 1948.

Section 75. The competent authority, and every officer empowered
 Certain officers demand to be public servants. by the appropriate Government, the Collector or the
 [S. 21, R.A.] competent authority, while exercising any power or per-
 45 of 1860. forming any duty under this Act, shall be deemed to be a
 public servant within the meaning of section 21 of the
 Indian Penal Code.

Section 76, (1) The Central Government may, by notification in
 Delegation of powers by Govern- the Official Gazette, direct that the powers exercisable by
 ment. it under Part III shall, in such circumstances and under
 [S. 17 (1), R.A.] such conditions, if any, as may be specified in the notifica-
 tion, be exercisable also by an officer subordinate to that
 Government or by the State Government or by an officer
 subordinate to the State Government.

[New] (2) The State Government may, by notification in the
 Official Gazette, direct that the powers exercisable by it
 under Part III shall, in such circumstances and under such
 conditions, if any, as may be specified in the notification,
 be exercisable also by an officer subordinate to that
 Government.

[S. 17(3), R.A.] (3) All notifications issued under this section by the
 Central Government or by the State Government shall be
 laid, as soon as may be, before Parliament or before the
 State Legislature, as the case may be.

Section 78, Penalty for destroying trenches etc. [S. 46, L.A.A.] Whoever.....wilfully fills up, destroys, damages or
 displaces any trench or mark made under section 4 shall
be punishable with imprisonment for a term
 which may extend to six months orfine which may
 extend to five hundred rupees, or.....both.

Section 78, Penalty for violation of Act etc, or obstruction in exercise of powers. [S. 20, R.A.] Whoever contravenes any provision of this Act, or
 any rule made thereunder, or any order made or direc-
 tion given under this Act, or obstructs the lawful exercise
 of any power conferred by or under this Act, shall be
 punishable with imprisonment for a term which may
 extend to six months, or fine which may extend to five
 hundred rupees, or both.

Section 79, Cognizance of offences [New] No court shall take cognizance of an offence under sec-
 tion 77 or 78 except on a report in writing of the facts con-
 stituting such offence made by an officer authorised in this
 behalf by the appropriate Government.

(1) The Central Government may, by notification in the Official Gazette, make rules consistent with this Act for carrying out the purposes of this Act and for the guidance of officers in all matters connected with its enforcement......

Section 80.
Power to
make rules
[S. 55 (1).
L.A.A.]
[S. 22 (1)
R.A.]

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

[S. 22(2).
R.A.]

(a) the procedure to be followed by the Collector or by the competent authority in proceedings or inquiries under this Act;

* * * * *

(b) the manner of service of notices and orders;

(c) the manner in which a tender may be made by the Collector under section 13;

(d) any other matter which has to be, or may be, prescribed.

[S. 55 (2).
L.A.A.]

(3) The power to make.....rules under sub-section (1) shall be subject to the condition of the rules being made.....after previous publication.

(4) All rules made under the provisions of this Act shall be laid, as soon as may be, before Parliament.

[S. 22 (3).
R.A.]

Repeal and savings¹

Section 81.
(New)

Not Drafted.

APPENDIX II

TABLE A

Showing the provisions in the existing Acts and the corresponding provisions, if any, contained in the proposals in Appendix I.

<i>Existing provision</i>	<i>Corresponding provisions, if any, in Appendix I.</i>
<i>Land Acquisition Act.</i>	
Section 1	Section 1
Section 2 (repealed)
Section 3	
Clause (a)	Section 2(g)
Clause (b)	Section 2(j)
Clause (c)	Section 2(h)
Clause (d)	Section 2(f)
Clause (e)	Section 2(c), part
Clause (ee)	Section 2(a)
Clause (f)	Section 2(m)
Clause (g)	Section 3
Section 4(1)	Section 4(1)
Section 4(2)	Section 4(3)
Section 5	Section 5
Section 5A(1)	Section 6(1)
Section 5A(2), earlier part	Section 6(2)
Section 5A(2), latter part	Section 7
Section 5A(3)	Omitted
Section 6(1), main para, part	Section 8(1)
Section 6(1), Prov.	Omitted
Section 6(2)	Section 8(3), part
Section 6(3)	Omitted
Section 7	Section 8(4), earlier part
Section 8	Section 8(2)
Section 9(1)	Section 10(1)
Section 9(2), part	Section 10(2)
Section 9(2), part	Section 10(3)
Section 9(3)	Section 10(4)
Section 9(4)	Section 10(5)
Section 10	Section 11
Section 11	Section 12(1)

Section 12	Omitted
Section 13	Omitted
Section 14	Omitted (See section 12, R.A.)
Section 15	Section 12(4)
Section 16, earlier part	Section 8(4), later part
Section 16, latter part	Section 9(1)
Section 17(1)	Omitted
Section 17(2), main para, part	Section 32(1) main para, opening lines
Section 17(2), main para, part	Sections 32(1), main para, Clause (a) and last portion.
Section 17(2), Prov.	Section 32(1), Prov.
Section 17(3)	Section 34
Section 17(4)	Omitted
Section 18	Omitted
Section 19	Section 20
Section 20	Section 41
Section 21	Omitted
Section 22	Section 62
Section 23	Section 21
Section 24	Section 22
Section 25(1)	Section 52(1)
Section 25(2), part	Section 52(2)
Section 25(2), part	Section 52(4)
Section 25(3)	Section 52(3)
Section 26(1)	Section 58(1)
Section 26(2)	Section 58(2)
Section 27(1)	Section 58(3)
Section 27(2)	Section 58(4)
Section 28	Section 53(1)
Section 29	Section 54
Section 30	Omitted
Section 31(1)	Section 13(1)
Section 31(2), main para	Section 13(2)
Section 31(2), 1st Prov.	Omitted
Section 31(2) 2nd Prov.	Omitted
Section 31(2), 3rd Prov.	Section 73
Section 31(3)	Section 17(1)
Section 31(4)	Section 17(2)
Section 32(1)	Section 23(1)
Section 32(2)	Section 23(3)
Section 33	Section 24(1)
Section 34	Section 14
Section 35	Omitted
Section 36	Omitted
Section 37	Omitted
Section 38(1)	Section 4(4)
Section 38(2)	Omitted
Section 38-A	Section 2(c), part
Section 39	Section 25
Section 40(1)	Section 26(1), part

Section 40(2)	Section 26(1), part
Section 40(3)	Section 26(2)
Section 41	Section 27
Section 42	Section 28
Section 43	Section 29
Section 44	Omitted
Section 45	Omitted (Sec S. 15 R.A.)
Section 46	Section 77
Section 47	Section 67
Section 48	Section 37
Section 49	Section 68
Section 50	Section 36
Section 51	Section 69
Section 52	Omitted
Section 53	Section 63
Section 54, earlier half	Section 60(1)
Section 54, latter half	Section 60(3)
Section 55(1)	Section 80(1), part
Section 55(2)	Section 80(3)
Section 55(3)	Omitted

Requisitioning Act

Section 1	Omitted (See S.L.L.A.A.)
Section 2	
Clause (a)	Omitted
Clause (b)	Section 2(b)
Clause (c)	Section 2(h)
Clause (d)	Omitted [See S. 2(b), L.A.A.]
Clause (e)	Section 2(k)
Clause (f)	Section 2(i)
Clause (g)	Omitted
Clause (h)	Section 2(n)
Section 3	Section 40
Section 4	Section 41
Section 5	Section 42
Section 6	Section 43
Section 7(1)	Section 49(1)
Section 7(2)	Section 49(2)
Section 8(1)	Section 45(1)
Section 8(2)	Section 45(2)
Section 8(3)	Omitted
Section 9	Omitted
Section 10	Section 46
Section 11	Omitted
Section 12	Section 64
Section 13	Section 65
Section 14	Section 47
Section 15(1)	Section 66(1)

Section 15(2)	Section 66(2)
Section 16	Section 44
Section 17(1)	Section 76(1)
Section 17(2)	Section 76(3)
Section 18	Section 72
Section 19	Section 74
Section 20	Section 78
Section 21	Section 75
Section 22(1)	Section 80 (1), part
Section 22(2)	Section 80(2)
Section 22(3)	Section 80(4)
Section 23	Omitted
Section 24	Omitted
Section 25	Omitted

TABLE B

Showing the provisions in the proposals in Appendix I and the corresponding provisions, if any, in the existing Acts.

Section 1	Section 1, L.A.A.
Section 2(a)	Section 3(ee), L.A.A.
(b)	Section 3(e), L.A.A.
(e), part	Section 3(e), L.A.A.
(c), part	Section 38-A, L.A.A.
(c), part	New
(d)	Section 2(b), R.A.
(e)	New
(f)	Section 3(d), L.A.A.
(g)	Section 3(a), L.A.A.
(h)	Section 2(c), R.A.
(i)	New
(j)	Section 3(b), L.A.A.
(k)	Section 2(e), R.A.
(l)	Section 2(f), R.A.
(m)	Section 3(f), L.A.A.
(n)	Section 2(h), R.A.
Section 3	Section 3(g), L.A.A.
Section 4(1)	Section 4(1), L.A.A.
(2)	New
(3)	Section 4(2), L.A.A.
(4)	Section 38(1), L.A.A.
(5)	New
Section 5	Section 5, L.A.A.
Section 6(1)	Section 5A(1), L.A.A.
(2)	Section 5A(2), earlier part, L.A.A.
(3)	New
Section 7	Section 5A(2), latter part, L.A.A.
Section 8(1)	Section 6(1), main para, part, L.A.A.
(2)	Section 8, L.A.A.
(3), part	Section 6(1), main para, part, L.A.A.
(3), part	Section 6(2), L.A.A.
Section 8(4), earlier part	Section 7, L.A.A.
(4), latter part	Section 16, earlier part, L.A.A.
(5)	New
(6)	New
Section 9(1)	Section 16, latter part, L.A.A.
(2)	New
Section 10(1)	Section 9(1), L.A.A.
(2)	Section 9(2), part L.A.A.
(3)	Section 9(2), part, L.A.A.

(4)	Section 9(3), L.A.A.
(5)	Section 9(4), L.A.A.
Section 11	Section 10, L.A.A.
Section 12(1)	Section 11, L.A.A.
Section 12(2)	<i>New</i>
(3)	<i>New</i>
(4)	Section 15, L.A.A.
Section 13(1)	Section 31(1), L.A.A.
Section 13(2)	Section 31(2), main para, L.A.A.
Section 14	Section 34, L.A.A.
Section 15	<i>New</i>
Section 16	<i>New</i>
Section 17(1)	Section 31(3), L.A.A.
Section 17(2)	Section 31(4), L.A.A.
Section 18	<i>New</i>
Section 19	<i>New</i>
Section 20	Section 19, L.A.A.
Section 21	Section 23, L.A.A.A.
Section 22	Section 24, L.A.A.
Section 23(1)	Section 32(1), L.A.A.
(2)	<i>New</i>
(3)	Section 32(2), L.A.A.
Section 24(1)	Section 33, L.A.A.
Section 24(2)	<i>New</i>
Section 25	Section 39, L.A.A.
Section 26(1), part	Section 40(1), L.A.A.
Section 26(1), part	Section 40(2), L.A.A.
Section 26(1)	Section 40(3), L.A.A.
Section 27	Section 41, L.A.A.
Section 28	Section 42, L.A.A.
Section 29	Section 43, L.A.A.
Section 30	<i>New</i>
Section 31	<i>New</i>
Section 32(1) main para, opening lines	Section 17(2), main para, part, L.A.A.
Section 32(1), main part, Cl. (e) and last portion.	Section 17(2), main part, L.A.A.
Section 32(1), main para, Cl. (d)	<i>New</i>
Section 32(1), Prov.	Section 17(2), Prov. L.A.A.
Section 32(2)	<i>New</i>
Section 32(3)	<i>New</i>
Section 33	<i>New</i>
Section 34	Section 17(2), Prov. L.A.A.
Section 35	<i>New</i>
Section 36	Section 50, L.A.A.
Section 37	Section 48, L.A.A.
Section 38	<i>New</i>
Section 39	<i>New</i>
Section 40	Section 3, R.A.
Section 41	Section 4, R.A.
Section 42	Section 5, R.A.

Section 43	Section 6, R.A.
Section 44	Section 16, R.A.
Section 45(1)	Section 8(1), R.A.
Section 45(2)	Section 8(2), R.A.
Section 46	Section 10, R.A.
Section 47	Section 14, R.A.
Section 48	<i>New</i>
Section 49(1)	Section 7(1), R.A.
(2)	Section 7(2), R.A.
Section 50	<i>New</i>
Section 51	Section 20, L.A.A.
Section 52(1)	Section 25(1), L.A.A.
(2)	Section 25(2), part, L.A.A.
(3)	Section 25(3), L.A.A.
(4)	Section 25(2), part, L.A.A.
Section 53(1)	Section 28, L.A.A.
Section 53(2)	<i>New</i>
Section 54	Section 29, L.A.A.
Section 55	<i>New</i>
Section 56	<i>New</i>
Section 57	<i>New</i>
Section 58(1)	Section 26(1), L.A.A.
(2)	Section 26(2), L.A.A.
(3)	Section 27(1), L.A.A.
(4)	Section 27(2), L.A.A.
(5)	<i>New</i>
Section 59	<i>New</i>
Section 60(1)	Section 54, earlier half, L.A.A.
(2)	<i>New</i>
(3)	Section 54, latter half, L.A.A.
(4)	<i>New</i>
Section 61	<i>New</i>
Section 62	Section 22, L.A.A.
Section 63	Section 53, L.A.A.
Section 64	Section 12, R.A.
Section 65	Section 13, R.A.
Section 66(1)	Section 15(1), R.A.
(2)	Section 15(2), R.A.
Section 67	Section 47, L.A.A.
Section 68	Section 59, L.A.A.
Section 69	Section 51, L.A.A.
Section 70	<i>New</i>
Section 71	<i>New</i>
Section 72	Section 18, R.A.
Section 73	Section 31(2), 3rd Prov., L.A.A.
Section 74	Section 19, R.A.
Section 75	Section 21, R.A.
Section 76(1)	Section 17(1), R.A.
(2)	<i>New</i>
(3)	Section 17(2), R.A.

Section 77	Section 46, L.A.A.
Section 78	Section 20, R.A.
Section 79	<i>New</i>
Section 80(1), part	Section 55(1), L.A.A.
(1) part	Section 22(1), R.A.
(2)	Section 22(2), R.A.
(3)	Section 55(2), L.A.A.
(4)	Section 22(3), R.A.
Section 81	<i>New</i>

APPENDIX III

State Land Acquisition Amending Acts

PART I—LIST OF ACTS.

SECTION I.—PART A STATES

Assam	The Assam Land Acquisition (Dibrugarh) Act, 1953 (Assam Act XXIII of 1953).
Bengal	The Land Acquisition (Bengal Amendment) Act, 1934 (Bengal Act II of 1934).
Bihar	The Land Acquisition (Bihar Amendment) Act, 1951 (Bihar Act XVII of 1951). The Land Acquisition (Bihar Amendment) Act, 1956 (Bihar Act XXI of 1956). The Land Acquisition (Bihar Second Amendment) Act, 1956 (Bihar Act XXXIV of 1956).
Bombay	The Land Acquisition (Bombay Amendment) Act, 1938 (XVIII of 1938). The Land Acquisition (Bombay Amendment) Act, 1945 (XX of 1945). The Land Acquisition (Bombay Amendment) Act, 1948 (IV of 1948). The Land Acquisition (Bombay Amendment) Act, 1950 (XXVII of 1950). The Land Acquisition (Bombay Amendment) Act, 1953 (XXXV of 1953).
Madhya Pradesh (Central Provinces).	(Central C.P. and Berar Land Acquisition (Amendment) Act, 1939 (XXVII of 1939). C.P. and Berar Land Acquisition (Amendment) Act, 1949 (VII of 1949). C.P. and Berar Land Acquisition (Second Amendment) Act, 1949 (XXVIII of 1949).
Madras	The Land Acquisition (Madras Amendment) Act, 1948 (XXI of 1948). The Land Acquisition (Madras Amendment) Act, 1953 (XII of 1953).
Punjab	Land Acquisition (East Punjab Amendment) Act, 1948 (XV of 1948).
Uttar Pradesh (United Provinces)	The Land Acquisition (U. P. Amendment) Act, 1954 (XXII of 1954).

SECTION II.—PART B STATES

PEPSU	The Pepsu Land Acquisition Act, 1953 (V of 1953).
Rajasthan	The Rajasthan Land Acquisition Act, 1953 (XXIV of 1953).
Saurashtra	The Land Acquisition Act, 1984 (Adaptation and Application) Ordinance, 1948 (XXI of 1948) as amended by Saurashtra Act XLIII of 1953.

SECTION III.—PART C STATES

Re-settlement of Displaced Persons (Land Acquisition) Act, 1948 (LX of 1948)
 Central Act (Amended by A.L.O. 1950).

(Applies to Delhi and Ajmer)

SECTION IV.—NATIVE STATES

Cochin	The Land Acquisition Act, 1070 (II of 1070) as amended by Acts IV of 1074, I of 1109, I of 1111, XXX of 1112, and proclamation V of 1112.
Hyderabad	The Hyderabad Land Acquisition Act, 1309 F (IX of 1309 Fasi) (1899). The Hyderabad Land Acquisition (Amendment) Regulation 1358 F (LIX of 1358 Fasi) (1948).
Mysore	The Mysore Land Acquisition Act, 1894 (VII of 1894), as amended by Acts XI of 1916, I of 1927, VII of 1932, III of 1941.
Travancore	The Land Acquisition Act, 1089 (XI of 1089), as amended by Acts V of 1096, I of 1099.

PART II—BRIEF SUMMARY OF THE ACTS.

SECTION I.—PART A STATES (BEFORE 1ST NOVEMBER, 1956).

The Assam Land Acquisition (Dibrugarh) Act, 1953 (XXIII of 1953)

The Assam Act (XXIII of 1953) provides for the speedy acquisition of Land for the construction of suitable works to protect the Dibrugarh sub-division from floods. After notification in the gazette and also service of notice, the collector shall proceed to take possession. Regarding compensation, it may be divided into two:

Firstly, for land excluding buildings, etc., the amount is not to exceed 20 times the annual land revenue. In the determination of the same, the following factors shall be taken into consideration:—

- (i) value of land at the date of acquisition;
- (ii) likelihood of a possible soil erosion prejudicially affecting the value;
- (iii) damage sustained by reason of the taking of the standing crops or trees at the time of taking possession.

Secondly, for building or structure, a sum equal to the sale proceeds of the material plus 15 per cent thereof shall be the compensation. (The owner may take away the material, if he so chooses, in lieu of the compensation).

Within seven days from the making of the award by the Collector, the person aggrieved may require the Collector, to refer the matter for the determination of the Court.

The Land Acquisition (Bengal Amendment) Act, 1934 (II of 1934)

The Bengal Act (II of 1934) amends the Land Acquisition Act, 1894 only to the extent of redefining the expression "Court" by the substitution of the following provision for clause (d) of section 3 of the Land Acquisition Act, 1894:

- "(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 Provincial 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".

*The Land Acquisition (Bihar Amendment) Act, 1951
(XVII of 1951) as amended by Acts XXI of 1956
and XXXIV of 1956*

The Bihar Act (XVII of 1951) amends sections 17 and 35 by adding the following proviso to sub-section (1) of the said sections.

"Explanation.—This sub-section shall apply to any waste or arable land, notwithstanding the existence thereon forest, orchard or trees or temporary structure such as huts, pandals or sheds".

Further under sub-section (1) of section 17, power is given to take possession on the expiration of fifteen days from the publication of the declaration under Sec. 6 instead of the notice mentioned in section 9(1). As a consequential change, in sub-section (2) also, the reference would be to 'declaration' and not 'notice'.

NOTE.—In effecting the amendment in sub-section (1) of section 17 stated above, it is laid down as follows:

- (i) in sub-section (1) for the words, brackets and figures "notice mentioned in clause 9, sub-section (1)", the words and figures "declaration mentioned in section 6" shall be substituted; (Bihar Code, Vol. IV First Edition 1955; p. 823).

It may be pointed out that in sub-section (1) of section 17, the group of words sought to be replaced are "notice mentioned in section 9, sub-section 1". It may be a clerical or drafting error, as the same is found in the Bihar Gazette (6th June, 1951) also.

The Bihar Act (XXI of 1956) effects the following changes in the Land Acquisition Act, 1894:

The taking possession of any waste or arable land is made possible even after the stage of notification under section 4 with the consent of the person interested or after the direction mentioned in the newly inserted sub-section (5). Similar provision is made in section 17(2) also. This has been done by the insertion of the following provision in sub-sections (1) and (2) of section 17:

“declaration mentioned in section 6 or, with the consent in writing of the person interested, the publication of the notification under section 4, or, where a direction has been made under sub-section (5), at any time after such direction is made”.

Sub-section (4) is modified in such a manner that in case of land to which sub-sections (1) and (2) apply, section 5A shall not apply if the State Government so directs or if possession has been taken with the consent of the person interested. The following is substituted for the existing sub-section.

“(4) In the case of any land to which, in the opinion of the appropriate Government the provisions of sub-section (1) or sub-section (2) are applicable, the provisions of section 5A shall not apply where the State Government so directs or where possession of the land has been taken with the consent of the person interested;”

A new sub-section (5) is also introduced:

“(5) Where the description of any particular land, which in the opinion of the appropriate Government is needed for any public purposes or for a company and to which the provisions of sub-section (1) or sub-section (2) are applicable, is available, it may direct that the provisions of section 4 shall not apply to the land.”

Section 34 dealing with the payment of interest is replaced by the following new section:

“34. *Payment of interest*.—(1) When the amount of such compensation is not paid or deposited on

or before taking possession of the land, the Collector shall pay or deposit interest thereon at the rate of six per centum per annum from the time of so taking possession until the amount shall have been paid or deposited.

- (2) Such interest shall be paid or deposited on or before the 30th June, every year; and when the amount of compensation is paid or deposited, any interest that may have fallen due subsequently shall be paid or deposited along with such amount;

Provided that, in the case of acquisition of any cultivable land, the Collector shall pay or deposit, in lieu of interest, the money value of the crops, if any, which would have been grown on the land, if the Collector had not taken possession thereof, after deducting therefrom the cost of cultivation.

- (3) In determining the money value of the crops which would have been grown on the land referred to in the proviso to sub-section (2), the Collector shall take into consideration the crops grown on the lands of similar class and with similar advantages in the vicinity and the market value of such crops".

Regarding temporary occupation under section 35(1), the following proviso to section 35(1) enables the Collector to act even without any direction from the appropriate Government :

"Provided that, whenever it appears to the Collector that, on account of apprehended damage to life or property by erosion, the temporary occupation and use of such land are urgently needed for the purpose of rehabilitating displaced persons or needed by any Railway Administration for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing connection with or access to any such station, the Collector may, without any direction of the appropriate Government procure the occupation and use of the same for such term as he shall think fit, not exceeding

three years from the commencement of such occupation."

The Bihar Act (XXXIV of 1956) effects the following changes in the Land Acquisition Act, 1894.

In the definition section, the following proviso is added to clause (c) defining the expression "Collector".

"Provided that for purposes of sections 4, 5A and 6, the expression "Collector" shall mean the Collector or Additional Collector of a District or a Deputy Commissioner or Additional Deputy Commissioner".

Again, in clause (f) of the definition section, 'public purpose' is defined so as to include provision for sanitary improvements, the laying out of village sites or townships etc. The substituted clause reads thus:

(ii) for clause (f), the following clause shall be substituted, namely:—

"(f) the expression "public purpose" includes provision for or in connection with—

- (i) sanitary improvements of any kind, including reclamation;
- (ii) the laying out of village sites or townships, or the extension, planned development or improvement of existing village sites or townships; and"

In sections 4, 38, 39 and 40 the power conferred upon the appropriate government has been conferred upon the Collector also by virtue of this amendment.

The amendment lays down that the preliminary notification in section 4(1) shall be published "in the offices of the Collector, Sub-divisional Officer, the village in which the land is situated and in the office of the Gram Panchayat, if any, constituted under the Bihar Panchayat Raj Act, 1947 (Bihar Act VII of 1948), and the police-station within whose jurisdiction the village lies and also in Official Gazette".

In section (5A) dealing with the hearing of objections, sub-section (2) is substituted by the following sub-sections:

"(2) Every objection under sub-section (1) shall be made in writing to the Collector who shall give the objector an opportunity of being heard

either in person or by pleader and shall, after hearing all such objections and making such further inquiry, if any, as he thinks necessary, decide the objections.

Provided that the appropriate Government may, either of its own motion or on the application of any person interested in the land, call for the record of the proceedings held by the Collector and pass such order as it may think fit.

- (2A) The decision of the Collector under sub-section (2) shall, subject to any order of the appropriate Government, be final."

Again, in the declaration section (i.e. section 6 of the Land Acquisition Act, 1894), sub-section (1) is substituted by the following sub-section:

"(1) Subject to the provisions of Part VII of this Act, where the appropriate Government is satisfied after considering the Collector's report, if any, under the proviso to sub-section (2) of section 5A, or the Collector is satisfied after hearing the objections, if any, under section 5A, that any particular land is needed for a public purpose, or for a company, a declaration shall be made by the appropriate Government or the Collector as the case may be, to that effect in writing:

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 the Consolidated Fund of the State or some fund controlled or managed by a local authority".

After the existing section 12, a new section 12A providing for the correction of the award has been inserted by the amending Act (XXXIV of 1956):

"12A. *Correction of award*—(1) The Collector may, at any time but not later than six months from the date of the award, or where a reference has been made under section 18, before the making of such reference, correct any clerical or arithmetical mistakes in the award either on his own

motion or on the application of any person interested.

- (2) The Collector shall give immediate notice of any correction made in the award to all persons interested.
- (3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), such person shall be liable to refund the excess, and if he defaults or refuses to pay, the same may be realised as an arrear of land revenue."

The power given in section 17(1) is extended to any land other than waste or arable land, if acquired for sanitary improvements by means of a new sub-section (1A):

"(1A) The power to take possession under sub-section (1) may also be exercised in the case of any land, other than waste or arable land, where the land is acquired for or in connection with sanitary improvements of any kind or planned development."

Section 39, amended as indicated earlier, is renumbered as sub-section (1) thereof and the following new sub-section is added:

"(2) In cases of acquisition of land for societies registered under the Societies Registration Act, 1860 (XXI of 1860), sub-section (1) shall have effect as if for the words, figures and brackets 'sections 6 to 37 (both inclusive)', the words and figures 'section 6 and 7' were substituted."

The Land Acquisition (Bombay Amendment) Act, 1938 (XVIII of 1938) as amended by Acts XX of 1945, IV of 1948, XXVII of 1950 and XXXV of 1953

The Bombay Act (XVIII of 1938) amends sections 28 and 34 of the Land Acquisition Act, 1894 by reducing the rate of interest payable on compensation from six per centum per annum to four per centum.

The Bombay Act (XX of 1945) amends the Land Acquisition Act, 1894 by the insertion of a new Part I-A enabling an officer of the Government to do all the things contemplated in Section 4(2) even before the notification

under section 4 and the payment of compensation for any damage done as provided in section 5 of the Land Acquisition Act, 1894. Also consequential changes are made in sections 45 and 46 dealing with service of notice and penalty in case of wilful obstruction.

The Bombay Act (IV of 1948) is intended to be in force only for a period of ten years. It brings within the scope of the Land Acquisition Act, 1894 the acquisition of land for the purpose of housing schemes. In sections 11 and 23(1) firstly, this amendment provides for the addition of "at the relevant date" after date of notification under s.4(1). The important change, however, is the omission of the 15% solatium provision in s.23(2). Further, it expressly states that s.23 shall not apply to any building.

The Bombay Act (XXVII of 1950) provides for the inclusion of a new clause after clause (a) of section 3 to the effect that "arable land" includes garden land.

The Bombay Act XXXV of 1953 amends the Land Acquisition Act, 1894. The following are the more important changes:

It provides that the expression "Court" shall include the Court of Civil Judge (Senior Division) to which the principal Civil Court may transfer any proceedings under the Act. In the definition of 'Public purpose' it provides for the acquisition of land for purposes of the development of areas from public revenues etc., and the subsequent disposal thereof by lease, assignment or sale with a view to securing further development.

It also provides that the Collector shall not make the award under section 11 without the prior approval of the State Government or any officer which the State Government may appoint in this behalf. It also adds a new section 12A which would enable the correction of clerical or arithmetical error in an award within a period of six months by the Collector either on his own initiative or on an application from the person interested. Also it seeks to enable the Collector to recover any overpayment made by him as if it were an arrear of land revenue. A new section 15A is added which empowers the State Government, before an award is made by the Collector under section 11, to call for and examine the record of any order passed by the Collector or of any enquiry or pro-

ceedings of the Collector for the purpose of satisfying itself about the legality of the order or the regularity of the proceedings. It may even annul or reverse the order, if necessary.

In section 17 dealing with cases of urgency, an addition has been made to cover damage to roads, rivers, channels or tanks by some unforeseen events. In the Part dealing with the temporary occupation of land, three new sub-sections are added after sub-section (1) of section 35. This would enable the State Government, before issuing a direction under sub-section (1) to require the Collector to submit a plan of the land and also an estimate of the compensation payable. The Collector then shall cause public notice of the substance of such requisition. Thereupon any officer authorised by the Collector may exercise the powers conferred under section 4(2). Such officer shall pay compensation at the time of his entry for all damage to be done and the decision of the Collector on this point shall be final.

*C.P. and Berar Land Acquisition (Amendment) Act, 1939
(XXVII of 1939) as amended by Acts VII of 1949 and
XXVIII of 1949*

The C.P. and Berar Act (XXVII of 1939) modifies sections 28 and 34 of the L.A. Act by providing that the rate of interest payable under these sections shall not be less than 3 per centum and more than 6 per centum. Thus it allows any interest between 3 and 6 per centum.

The C.P. and Berar Act (VII of 1949) provides for an exception to the expression "Court" defined in section 3(d) of the Land Acquisition Act, 1894 by the insertion of a new sub-section (3) in section 18 of the Land Acquisition Act, 1894 as follows:

"Any order made by the Collector on an application under this section shall be subject to revision by the High Court, as if the Collector were a Court subordinate to the High Court within the meaning of section 115 of the Code of Civil Procedure, 1908".

NOTE:—It may be pertinent to point out that it would suffice if the insertion of sub-section (3) in section

18 has been suggested without any need to insert the words "except in sub-section (3) of section 18" after the word "Court" in section 3(d). Still the result would have been the same.

The C.P. and Berar Act (XXVIII of 1949) effects the following amendment:

In sub-section (2) section 17 of the Land Acquisition Act, 1894, after the words "any such station", the following words shall be inserted, namely:—

"or whenever owing to a like emergency it becomes necessary for the State Government to acquire the immediate possession of any land for the purpose of maintaining traffic over a public road".

The Land Acquisition (Madras Amendment) Act, 1948 (XXI of 1948) as amended by Act XII of 1953.

The Madras Act (XXI of 1948) provides that sub-section (1) of section 17 of the Land Acquisition Act, 1894 which governs the taking possession of any waste or arable land shall apply to waste or arable land notwithstanding the existence thereon of scattered trees or temporary structures like pandals, huts, sheds etc. Further, it seeks to provide for immediate taking possession under section 17 (2) in the following cases as well:

- "(b) whenever in the opinion of the Collector it becomes necessary to acquire the immediate possession of any land—
- (i) for the purpose of any library or educational institution, or
 - (ii) for the construction, extension or improvement of—
 - (A) any building or other structure in any village for the common use of the inhabitants of such village, or
 - (B) any godown for any society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, or
 - (C) any dwelling house for the poor, or

- (D) any irrigation tank, irrigation or drainage channel, or any well, or
- (E) any road”.

The Madras Act (XII of 1953) modifies sections 28 and 34 of the Land Acquisition Act, 1894 by reducing the rate of interest to four per cent and adding the following proviso:

“Provided that where such possession is taken before the commencement of the Land Acquisition (Madras Amendment) Act, 1953, the foregoing shall have effect as if for the rate of 4 per centum per annum specified therein the rate of 6 per centum per annum had been substituted.”

Land Acquisition (East Punjab Amendment) Act, 1948
(XV of 1948)

The East Punjab Act (XV of 1948) seeks to protect the compensation amount from attachment etc., by inserting a new section 52-A in the Land Acquisition Act, 1894 to the following effect:

“52-A. No compensation awarded or awardable under this Act—

- (a) before it is actually paid to the person entitled to receive the same or;
- (b) before or after it is actually paid to the person entitled to receive the same in respect of any land which is not liable under the law for the time being in force to attachment or sale in execution of a decree or order of any court,

shall be liable to seizure, attachment, or sequestration by process of any Court, at the instance of a creditor, for any demand against the person entitled to compensation, or in satisfaction of a decree or order of any court, and, notwithstanding anything to the contrary in any law for the time being in force, neither the official assignee nor any receiver appointed under any law shall be entitled to proceed against or to have any claim on any such compensation.”

The Land Acquisition (U. P. Amendment) Act, 1954
(XXII of 1954)

The U.P. Act (XXII of 1954) amends the Land Acquisition Act, 1894 in so far as it applies to acquisitions of land except for the purposes of the Union. The following are the important changes effected.

The expression 'public purpose' is made to include provision for or in connection with:

- (1) sanitary improvements of any kind including the reclamation;
- (2) the laying out of village sites, townships or the extension plan development or improvement of existing village sites or townships;
- (3) the settlement of land for agriculture with the weaker section of the people.

Again, in the definition clause, a new clause (h) defining "Land Reforms Commissioner" as one appointed by the Government has been added.

In section (4), sub-section (1) and (2) of the Land Acquisition Act, 1894, the U.P. Act seeks to empower the Collector in addition to the appropriate Government in the matter of issuing the notification and authorizing an officer to enter upon and do the other acts mentioned in sec. 4(2).

In sub-section (1) of section 5A, the period of thirty days within which objection to acquisition is to be made is reduced to twenty-one days. Another amendment to sec. 12 requires the Collector to send a copy of the award to the Land Reforms Commissioner. A new section 12A is added :

"12-A. The Collector may, at any time but not later than six months from the date of the award, or where a reference has been made under section 18, before the making of the reference, correct any clerical or arithmetical mistakes in the award either on his own motion or on the application of any person interested.

- (2) The Collector shall give immediate notice of any correction made in the award to all persons interested.

- (3) Where any excess amount is proved to have been paid to any person as a result of the corrections made in sub-section (1), such person shall be liable to refund the excess, and if he defaults or refuses to pay, the same may be realised as an arrear of land revenue”.

Section 17 is amended by the insertion of the following new sub-section (1-A):

“(1-A) The power to take possession under sub-section (1) may also be exercised in the case of any land other than waste or arable land, where the land is acquired for or in connection with sanitary improvements of any kind or planned development”.

To section 18, two new sub-sections are added:

“(3) Without prejudice to the provisions of sub-section (1) the Land Reforms Commissioner may, where he considers the amount of compensation allowed by the award under section 11 to be excessive, require the collector that the matter be referred by him to the Court for determination of the amount of compensation. *Explanation.*—In any case of land under Chapter VII the requisition under this sub-section may be made at the request of the Company on its undertaking to pay all the costs consequent upon such requisition.

(4) The requisition shall state the grounds on which objection to the award is taken and shall be made within six months from the date of the award.”

Section 23 is amended by the addition of the following explanation to clause (1) :

“*Explanation.*—In judging the market value aforesaid, in any case where land is acquired for or in connection with sanitary improvements of any kind or planned development, due regard shall be had to the insanitary and unhygienic conditions of the land on the date aforesaid.”

Another important change effected is the omission of the solatium provision in section 23(2). But, however, it is provided that this omission shall not affect acquisitions

made in pursuance of notification under section 4 of the Land Acquisition Act, 1894 issued prior to the commencement of this Act (i.e. the U.P. Act).

Section 25 is amended by the deletion of the words, "or be less than the amount awarded by the Collector under section 11". This would mean that the Court may award compensation which is even lesser than the amount awarded by the Collector under section 11.

In Part VII dealing with acquisition for companies, section 39 is amended by the insertion of the following new sub-section.

"(2) In cases of acquisition of land for a society registered under the Societies Registration Act, 1860, sub-section (1) shall have effect as if for the words and figures "sections 6 to 37 both inclusive" the words and figures "sections 6 and 7" had been substituted."

SECTION II.—PART B STATES (BEFORE 1ST NOVEMBER, 1956).

The Pepsu Land Acquisition Act, 1953 (V of 1953)

The Pepsu Act (V of 1953) extends the Land Acquisition Act, 1894 to the State of Pepsu with certain modifications indicated in the schedule after repealing the Patiala Land Acquisition Act, 1895BK and the Pepsu Act, 2006BK while at the same time providing for the validation of acquisition, awards and agreements under the Act of 2006BK, made prior to the commencement of the 1953 Act.

In the definition section, clause (ee) defining the expression "appropriate Government" is omitted and instead, the expression "appropriate Government" is replaced by the words "State Government" throughout the Act.

Section 23 of the Land Acquisition Act, 1894 is amended by the substitution of the following clause for the existing clause first:

"first the market value of the land at the date of the publication of the notification under sub-section (1) of section 4 or where more than three years have elapsed between the date of publication of the notification under the said sub-section and the date of taking possession of such land (whether such possession is taken

before or after the date of the award determining the compensation), the market value of the land immediately before the date of the award."

The Rajasthan Land Acquisition Act, 1953 (XXIV of 1953)

The Rajasthan Act (XXIV of 1953), as amended, has made several additions to the Land Acquisition Act, 1894.

In the definition section, clause (ee) defining "appropriate Government" is omitted and the word "Government" is substituted for the expression "appropriate Government" wherever it occurs in the Act. In the definition of 'public purpose', the following addition has been made:

"also includes planned development of lands from public funds and subsequent disposal thereof in whole or in part by lease or sale or in such other manner as may be directed by the Government with the object of securing further development as planned;"

In clause (g) of section 3 defining persons 'entitled to act', reference to married woman is omitted.

The following additions have been made to the definition section:

- (h) the expression "Code" means the Code of Civil Procedure, 1908 (V of 1908);
- (j) the expression "local authority" includes an improvement or development trust constituted under any law for the time being in force in the whole or any part of pre-reorganisation State of Rajasthan.

Existing section 5 is renumbered as sub-section (3) of section 4 and the following new section is inserted as section 5.

- "5. (1) The Collector or a Revenue Officer specially empowered by the Government in this behalf shall forward to the Government with his remarks a report on the result of the survey, if any, and other operations described in and taken under sub-section (2) of section 4.

- (2) After considering the report, if any, submitted under sub-section (1) or, if no such report has been received, at any time after the issue of the notification under sub-section (1) of section 4, the Government shall publish a further notification in the Rajasthan Gazette, giving sufficient description of the land already notified under the said sub-section (1) of section 4 to enable it to be identified and stating the purpose for which it is or is likely to be needed, its approximate area and situation and, where a plan has been made of the land, the place where such plan may be inspected, and the Collector shall cause public notice to be given of the substance of the said further notification at convenient places on or near the land to be acquired."

In section 6 dealing with declaration, the following new sub-section has been added:

- "(4) Upon the publication of a declaration under sub-section (1), the notification under sub-section (1) of section 4 shall, so far as it does not include the particular land covered by the said declaration, be deemed to be cancelled except to the extent, if any, that the Government may, by notification in the Rajasthan Gazette in which the said declaration is published, direct otherwise."

In section 11, additions are made laying down the time limit within which the Collector shall make an award and also providing for costs in some cases. As regards the time limit, it is stated that the Collector shall, except for reasons beyond his control, make an award within a period of six months commencing from the time fixed under sub-section (2) of section 9. The new provisions relating to costs are as under:

- "(iv) the costs which, in his opinion, should be allowed to any person who is found to be entitled to compensation and who is not entitled to compensation and who is not entitled to receive the additional sum of ten per centum mentioned in sub-section (2) of section 23, as having been actually and reasonably incurred

by such person in preparing his claim and putting his case before the Collector:

(2) The Collector may disallow, wholly or in part, costs incurred by any person if he considers that the claim made by such person for compensation is extravagant."

After section 12, a new section 12A has been inserted enabling the Collector to correct clerical and arithmetical mistakes in the award.

"12A. Clerical and arithmetical mistakes in the award, may, at any time not later than six months from the date of the award, be corrected by the Collector either on his own initiative or on the application of the parties. If the amendment of the award discloses any over-payment the Collector shall issue a notice to the persons to whom over-payment was wrongly made either immediately after the amendment of the award or after expiry of the time allowed to make a reference to the Court against the amendment of the award, that if the amount over-paid is not credited to Government within a month after the receipt of the notice, such amount shall be recovered as arrears of land revenue."

In section 17, sub-section (2) dealing with taking immediate possession in certain emergencies, the power has been extended for the purpose of maintaining road communication or irrigation or water supply service by the following addition:

"Or whenever owing to a like emergency or owing to breaches or other unforeseen damage occurring to roads, rivers, channels or tanks it becomes necessary for the Government to acquire the immediate possession of any land for the purpose of maintaining road communication or irrigation or water supply service, as the case may be."

The following new sub-sections have been added after sub-section (4) of section 17.

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

- (6) Before granting any such certificate, the District 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 dis-possession."

The following new section 17-A providing for the transfer of land to local authority has been inserted.

"17A. When any land is acquired for the purpose of a local authority, the Collector shall, in every case referred to in section 16 or 17, make over charge of the land, upon payment of the cost of acquisition to that authority and the land shall thereupon vest in the local authority subject to its liability to pay any further costs which may be incurred on account of its acquisition."

In section 18, provision has been made to make it possible for the Government department on whose behalf acquisition is being made to ask for a reference to the Court where it has not accepted the award.

The following new sub-section (3) has also been introduced :—

"(3) Any order made by the Collector on an application made under this section shall be subject to revision by the High Court as if the Collectors were a Court subordinate to the High Court within the meaning of section 115 of the Code."

A new section 22A has been inserted to enable the Government department to make cross-objection to the Court when the person interested under section 18(1) raises any objection which the Collector refers to the Court.

"22A. Whenever in pursuance of section 18(1) any person interested has raised any objection which

has been referred by the Collector for the determination of the Court, the Government department in whose behalf acquisition is being made shall have the right of making cross-objection to the Court."

In section 23, sub-section (1) in clause firstly, the relevant date of determination of market value is the date of declaration under section 6.

In sub-section (2), the solatium is reduced to ten per cent. Sub-section (2) as modified and the new sub-section (3) inserted are given below.

"(2) In addition to the market value of the land as above provided the Court shall, in every case except where a certificate has been granted under sub-section (5) of section 17, award a sum of ten per centum on such market value in consideration of the compulsory nature of the acquisition:

Provided that the sum of ten per quantum shall not be awarded when any land has been acquired for the purpose of an improvement or development trust unless such land consists of—

- (a) building in the actual occupation of the owner or his tenant or occupied free of rent by a relative of the owner and land appurtenant thereto, or
 - (b) gardens not let out but used by the owner.
- (3) For the purposes of clause first of sub-section (1) of this section,—
- (a) the market value of the land shall be the market value according to the use to which the land was put at the date with reference to which the market value is to be determined under the clause, and for the purpose of the market value the Court shall take into consideration transfers of land similarly situated in similar use and shall not admit evidence that any price actually paid for similar land in similar use contains any element of the potential value of the land transferred for any more lucrative use, and if on the material date the land is subject to any res-

trictions under any law for the time being in force, the market value shall be assessed taking into account these restrictions,

- (b) if it be shown that before such date the owner of the land had taken active steps and incurred expenditure to secure a more profitable use of the same, further compensation based on his actual loss may be paid to him,
- (c) if the market value is specially high in consequence of the land being put to 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 use,
- (d) if the market value has been increased by means of any improvement made by the owner or his predecessor-in-interest within one year before the aforesaid date, such increase shall be disregarded unless it be proved that the improvement so made was made in good faith and not in contemplation of proceedings for the acquisition of the land being taken under this Act,
- (e) 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,
- (f) 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, and
- (g) when the owner of the land or building has, within two years preceding the aforesaid date, made a return of the rent of the land or building to the Government or any local authority, the rent of the land or building shall not in any case be deemed to be greater than the

rent shown in the latest return so made, save as the Court may otherwise direct, and the market value may be determined on the basis of such rent:

Provided that where any addition to or improvement of, the land or building has been made after the date of such latest return and previous to the date with reference to which the market value is to be determined the court shall take into consideration any increase in the letting value of the land or building due to such addition or improvement."

The following new section 24A has been inserted.

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

- (i) when any interest in any land acquired under this Act has been acquired after the date of the publication of the declaration under section 6, 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;
- (ii) if, in the opinion of the Court, 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 for such building shall not exceed the value of the materials of the building."

In Section 25 dealing with Rules as to compensation, in sub-section (1), there is omission of the words "be less than the amount awarded by the Collector"; and so the Court can allow even lesser compensation. Besides, sub-section (3) has also been omitted.

In sections 28 and 34, the rate of interest has been reduced to 4 per cent.

The following new sub-section has been introduced at the end of section 31.

"31. (5) When a person interested in any land and competent to contract in respect thereof has, at any stage of the proceedings for the acquisition of land stated in writing before the Collector, or, if the proceedings are pending in a Court, before that Court, that he gives up his claim to compensation in respect of the land, he shall be deemed to have received and given a valid discharge for such compensation for the land as would otherwise have been payable to him."

In Part VI dealing with "Temporary occupation of Land," two new sub-sections (2) and (3) have been introduced in section 35 and the existing sub-section renumbered as (4) and (5).

"35.(2) Before issuing a direction under sub-section (1) the Government may require a Collector to submit—

- (a) a plan of the land which is needed for occupation and use,
- (b) a report stating whether it is desirable to occupy the land, and
- (c) an estimate of the compensation that would be payable under sub-section (4) and upon the issue of such a requisition the Collector shall cause public notice of the substance of requisition to be given at convenient places in the locality in which the land is situated. After the issue of such notice it shall be lawful for any officer either generally or specially authorised by the Collector 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 therein;

to make such levels, boundaries and line by placing marks and cutting trenches; and where otherwise the survey cannot be completed and the levels taken or the boundaries and line marked, to cut down and clear away any or part of the standing crop, fence or jungle.

- (3) The officer authorised under sub-section (2) shall, at the time of his entry, pay or tender payment for all necessary damage to be done as aforesaid and in the 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."

In section 37, where the difference as to the condition of the land has been referred to the decision of the court, it is provided that provisions of Part III would apply *mutatis mutandis*.

By the insertion of a new section 48A, it is provided that where the acquisition is not completed within a year compensation is to be paid for the damage suffered due to delay. A new section 48B provides that in certain cases, sections 48 and 48A would not apply.

"48A. (1) If within a period of one year from the date of the publication of the declaration under section 6 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, unless he has been to a material extent responsible for the delay, be entitled to receive compensation for the damage suffered by him in consequence of the delay.

- (2) The provision of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section."

"48B. 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 with, or the acceptance of a payment to, the owner of the land."

The following sub-section is inserted at the end of sub-section (3) of section 49.

“(4) For the purposes of sub-section (1) land which is held with and attached to a house and is reasonably required for the enjoyment and use of the house shall be deemed to be part of the house.”

A new section dealing with interpretation has been added as the last section.

“56. The provisions of the General Clauses Act, 1897 (X of 1897), shall *mutatis mutandis* apply so far as may be, to this Act in the same manner as they apply to a Central Act.”

The Land Acquisition Act, 1894 (Adaptation and Application Ordinance, 1948 as amended by Saurashtra Act XLIII of 1953)

The Saurashtra Act has made the following changes in the Land Acquisition Act of 1894.

In the definition section in clause (c), the reference to Deputy Commissioner is omitted. In clause (e), the reference is to the Indian Companies Act 1913 as amended from time to time instead of the Indian Companies Act of 1882. It provides that the expression “Court” would include the Court of Civil Judge (Senior Division) to which the principal Civil Court may transfer any proceedings under the Act. In the definition of ‘public purpose’ it provides for the acquisition of land for purposes of the development of areas from public revenues etc., and the subsequent disposal thereof by lease, assignment or sale with a view to securing further development.

It also provides that the Collector shall not make the Award under Section 11 without the prior approval of the State Government or any officer which the State Government may appoint in this behalf. It also adds a new Section 12A which would enable the correction of clerical or arithmetical error in an Award within a period of six months by the Collector either on his own initiative or on an application from the person interested. Also it seeks to enable the Collector to recover any over-payment made by him as if it were an arrear of land revenue. A new Section 15A is added which empowers the State Government, before an Award is made by the Collector under Section 11, to call for and examine the record of any order passed by the Collector or of any enquiry or proceedings

of the Collector for the purpose of satisfying itself about the legality of the order or the regularity of the proceedings. It may even annul or reverse the order, if necessary.

In section 17, dealing with cases of urgency, an addition has been made to cover damage to roads, rivers, channels or tanks by some unforeseen events.

In the Part dealing with the temporary occupation of land, three new sub-sections are added after sub-section (1) of section 35. This would enable the State Government, before issuing a direction under sub-section (1) to require the Collector to submit a plan of the land and also an estimate of the compensation payable. The Collector then shall cause public notice of the substance of such requisition. Thereupon any officer authorised by the Collector may exercise the powers conferred under section 4(2). Such officer shall pay compensation at the time of his entry for all damages to be done and the decision of the Collector on this point shall be final.

In section 47 the reference to Calcutta, Madras and Bombay is omitted.

In Section 54 relating to appeals the following words are deleted: "and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council subject to the provisions contained in section 110 of the Code of Civil Procedure, 1908 and in Order XLV thereof."

Lastly, it provides for the substitution of the words "Government of Saurashtra" for the words "Central Government", "appropriate Government", or "Crown", wherever they may occur.

SECTION III—PART C STATES

The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (LX of 1948, as amended by A.L.O. 1950) (Central Act)

The Act extends only to Ajmer and Delhi. The object of this Act is to provide immediate accommodation to displaced persons and for that end to speedily obtain possession of the land. The Act to a large extent departs from the procedure laid down in the L.A. Act, 1894. Immediately after the notification for acquisition of the land is served and published, the land vests absolutely in the State Government free from all encumbrances and thereafter possession of the land may be taken. The pro-

cedure for enquiry into the objection follows thereafter. If the objection is upheld the land is released from acquisition and is re-vested in the owner together with the encumbrances which were previously extinguished.

If the objections are over-ruled, the compensation will have to be determined either by agreement or arbitration. If it was not possible to settle amicably, the arbitrator to whom the dispute has to be referred, should be a person qualified for appointment as a judge of a High Court. He is assisted in the determination by two experts, one nominated by the State Government, and the other by the person to be compensated. An appeal against the decision of the arbitrator lies to the High Court.

Market value of the land has to be fixed as on the date of the preliminary notification on 1.9.'39 with an addition of 40 per cent whichever is less.

The Act is a complete code in itself and contains provisions on other matters analogous to those of the Land Acquisition Act, 1894.

SECTION IV—NATIVE STATES

The Land Acquisition Act, 1070 (II of 1070) as amended by Acts IV of 1074, I of 1109, I of 1111, XXX of 1112, and Proclamation V of 1112.

The Cochin Act (II of 1070), amended as above has effected the least possible change in the Land Acquisition Act, 1894.

In section 3(c), instead of the expression "Collector", the expression Peishkar (who takes the Place of the Collector) is defined. Clause (ee) in section 3 defining appropriate government is omitted but the expression "Diwan" is substituted for the expression "appropriate Government" wherever it occurs in the Act.

In sub-section (2) of section 10, the corresponding sections (161 and 162) of the Cochin Penal Code are substituted for sections 175 and 176 of the Indian Penal Code.

In the section dealing with reference to the Court at the instance of the person interested who does not accept the award of the Collector, an addition has been made

in the Cochin Act enabling the Diwan to ask for a reference, if he desires. The addition at the end of sub-section (1) of the relevant section reads thus :

“The Diwan likewise may, if he has not accepted the award, require that the matter be referred to the Court by the Peishkar.”

An important Proviso is added to clause first of section 23(1) of the Land Acquisition Act, 1894 which reads as follows:

“Provided that the valuation should be such that the value of the land plus the value of improvements thereon must not exceed the market value of the property in question and provided further that the value to be awarded should be the prevailing market rate irrespective of the price paid for previous acquisition”;

In the section corresponding to section 27 of the Land Acquisition Act, 1894, the existing sub-section (1) is reproduced as sub-section (2), while the existing sub-section (2) of the Indian Act of 1894 is missing. The reason for the omission, if it is deliberate is not apparent. The omitted sub-section reads thus:

“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.”

Again, in section 31 dealing with the payment of compensation or deposit in Court, in sub-section (2) after the three provisos, a new sub-section has been introduced which reads as follows:

“When the Diwan requires the Peishkar to make a reference under section 17, it shall be competent to him to demand security from the person claiming the amount awarded and to withhold payment until such security is furnished.”

Section 53 of the Cochin Act which corresponds to section 54 of the Land Acquisition Act, 1894 provides for an appeal to the Chief Court from an award.

The Hyderabad Land Acquisition Act, 1309F (IX of 1309F) [1899] as amended by the Hyderabad Land Acquisition (Amendment) Regulation 1358F (LIX of 1358F) [1948]

The Hyderabad Act (IX of 1309 F) as amended by the Regulation (LIX of 1358 F) has effected the following changes in the Land Acquisition Act of 1894.

In the definition section, instead of Collector, the expression 'Taluqdar' (who takes the place and discharges the functions of the Collector) is defined.

The expressions "Court" and "company" have been slightly differently defined in the light of their applicability to Hyderabad.

Clauses (ee), (f) and (g) defining "appropriate Government", "public purpose" and persons "entitled to act" have been omitted. Consequently, the reference to persons entitled in sub-section (3) of section 5A is also omitted.

Sub-section (2) of section 10 making it obligatory on the part of persons to make or deliver certain statements required under section 9, 10 has been omitted.

Likewise section 10 conferring power to summon and enforce attendance of witnesses and production of documents has been omitted.

Section 18 has been modified by fixing a uniform period of two months from the date of receipt of notice of award within which application can be made requiring the Collector (Taluqdar) to make the reference to court instead of the six weeks period from different dates mentioned in clauses (a) and (b) of sub-section (2) of section 18 of the Indian Act.

Section 22 requiring the proceedings to be in open court does not find a place in the Hyderabad Act.

In the section corresponding to section 24 of the Land Acquisition Act, 1894, the clause fourthly found in the Indian Act is omitted in the Hyderabad Act. Besides, in clause fifthly and sixthly of the Indian Act, in factors to be disregarded, reference made only to the "increase to the value" because of the use to which the acquired land

will be put to; but the Hyderabad Act requires that both the "decrease and increase" should be disregarded. The provisions are as follows:

"fourthly, any decrease or increase in the value of the land likely to accrue from the use to which it will be put when acquired;"

"fifthly, any decrease or increase in the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;"

Sub-section (2) of section 26 of the Land Acquisition Act which says that "every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment" within the meaning of the Code of Civil Procedure is omitted in the Hyderabad Land Acquisition Act.

In section 38-A dealing with acquisition for companies, a minor change has been effected by increasing the number of workmen in an industrial concern from one hundred to two hundred.

In the last Part containing miscellaneous provisions, section 45 dealing with service of notice and section 46 providing for penalty in case of obstruction have been omitted in the Hyderabad Act.

In section 52 of the Land Acquisition Act, 1894 a minor change has been made by increasing the period of previous notice from one month to three months in case of suits under the Act.

Lastly, in the section corresponding to section 54 of the Land Acquisition Act, 1894 provision is made for appeal to the High Court.

The Mysore Land Acquisition Act, 1894 (VII of 1894) as amended by Acts XI of 1916, I of 1927, VII of 1932 and III of 1941

The Mysore Act (VII of 1894), amended as shown above, is almost a verbatim reproduction of the Land acquisition Act, 1894 excepting for the changes indicated below:—

In section 3(c), the expression "Deputy Commissioner" is defined instead of the expression "Collector". Likewise 3(ee) defining "appropriate Government" is omitted but the words "Government of Mysore" are used wherever the

expression "appropriate Government" is used in the Act, and in 3(f), it is said,

"the expression 'public purpose' includes the provision of village sites;"

Sub-section (2) of section 26 which states that every award shall be deemed to be a decree is omitted.

So also, section 38-A, dealing with Industrial concern, has been omitted.

Section 54 provides for an appeal to the High Court from an award.

The Land Acquisition Act, 1089 (XI of 1089) as amended by Acts V of 1096, I of 1099.

The Travancore Act (XI of 1089), as amended, has effected the following changes in the L.A. Act, 1894.

In the definition section, instead of the expression "Collector", the expression "division peishkar" has been defined. The expression "local authority" is defined as "any Municipal Council or other authority legally entitled to, or entrusted by the Government with the control or management of any municipal or local fund".

Clauses (d), (e), (ee) and (f) defining the expression "Court", "company", "appropriate Government" and "public purpose" have been omitted and wherever the expression "appropriate government" occurs in the Act, it is replaced by the word "Government". Again, the reference to "married women" in the clause dealing with persons "entitled to act" has been omitted.

Section 5-A dealing with the hearing of objections has been omitted.

The reference to company in the declaration section (6) and the proviso thereof to sub-section (1) has been omitted.

In section 9 dealing with notice to persons interested, the following new sub-section is added as the fifth one.

"(5) The notice shall also be published in the Gazette, and shall be deemed to be sufficient notice to all persons interested in the land as between the Government and such persons."

After the existing section 15, the following new section (dealing with the making of award where there is agreement) has been introduced :

"15. Award in case of agreement as to the amount of compensation.—If the Division Peishkar and all the persons interested agree as to the amount of compensation to be allowed, the Division Peishkar shall, with the previous sanction of the Government, make an award under his hand for the same.

Award to be filed and to be evidence. Such award shall be filed in the Division Peishkar's office and shall be conclusive evidence, as between the Government and all persons interested of the value of the land and the amount of compensation allowed for the same."

Sub-section (2) of section 17 (dealing with emergency cases where it becomes necessary for the Railway Administration to take immediate possession) along with the proviso has been omitted. Again, sub-section (4) making section 5A not applicable to certain cases has been omitted since, as mentioned already, section 5A does not find a place in the Travancore Act.

In clauses (a) and (b) of sub-section (2) of section 18, the six weeks' period is increased to a two-months' period.

Section 22 providing for the proceedings to be in open court has been omitted.

In section 23, in clause firstly of sub-section (1), the Travancore Act provides that the market value shall be as at the date of declaration under section 6 and not as at the date of publication of notification under section 4(1).

In section 26, sub-section (2) providing that the award shall be deemed to be a decree has been omitted.

In section 27, sub-section (2) providing for payment of costs by the collector where his award is not upheld has been omitted.

In section 31 providing for the payment of compensation or deposit in court, a new proviso has been added at the end to the effect that "no such arrangement shall be made without the previous sanction of the Government".

Sections 35 to 44 have been omitted. That is, the Part dealing with Temporary Occupation of Land and the Part

dealing with Acquisition of Land for Companies have been omitted.

In section 35-A of the Travancore Act which corresponds to section 50 of the L.A. Act, 1894, provision is made for acquisition of land at the cost of local authority only and not for any company (since the Part dealing with Companies has been omitted). Further, instead of the existing proviso, a new sub-section (3) has been added enabling the local authority objecting to the award of the Peishkar to ask for a reference to court. The new sub-section reads as follows :

“(3) Any such local authority which objects to the award of a Division Peishkar in regard either to the area of the land or to the amount of compensation may ask for a reference to the District Court within whose jurisdiction the land is situate in the manner and within the time specified in section 18; and thereupon the provisions of sections 19 to 23 and 25, in so far as they may, shall apply.”

Section 51 exempting award and agreement from stamp duty has been omitted.

In section 52 which lays down the requirement of month's previous notice before commencing any proceeding or prosecution against any person under the Act, an addition has been made barring suit or other proceedings “after the expiration of six months from the accrual of the cause of action”.

In section 38 of the Travancore Act which corresponds to section 54 of the L.A. Act, 1894 it is laid down that an appeal shall lie to the High Court from the award.

Immediately after this, following new section has been inserted :

“39. *Provisions of Limitation Act and Code of Civil Procedure made applicable.*—The provisions of the Limitation Act and the Code of Civil Procedure in respect of regular appeals in ordinary suits shall, so far as may be, apply to proceedings before the High Court under this Act.”

APPENDIX IV

Other Acts containing provisions for acquisition

PART I—LIST OF ACTS

SECTION I—CENTRAL ACTS

1. The Indian Telegraphs Act, 1885 (XIII of 1885).
2. The Indian Tramways Act, 1886 (XI of 1886).
3. The Indian Railways Act, 1890 (IX of 1890).
4. The Indian Works of Defence Act, 1903 (VII of 1903).
5. The Indian Electricity Act, 1910 (IX of 1910).
6. The Indian Forest Act, 1927 (XVI of 1927).
7. The Damodar Valley Corporation Act, 1948 (XIV of 1948).
8. The Delhi Road Transport Authority Act, 1950 (XIII of 1950).
9. The Road Transport Corporations Act, 1950 (LXIV of 1950).
10. Slum Areas (Improvement and Clearance) Act, 1956 (XCVI of 1956).
11. The Territorial Councils Act, 1956 (CII of 1956).
12. The Coal Bearing Areas (Acquisition and Development) Act, 1957 (XX of 1957), as amended by Act LI of 1957.
13. The Delhi Development Act, 1957 (LXI of 1957).

SECTION II—STATE ACTS

Part A

Bengal

1. The Calcutta Improvement Act, 1911 (5 of 1911).
2. The Bengal Municipal Act, 1932 (15 of 1932).
3. The Calcutta Municipal Act, 1951 (33 of 1951).

Bihar

4. The Bihar and Orissa Municipal Act, 1922 (7 of 1922).
5. The Darbhanga Improvement Act, 1934 (4 of 1934).
6. The Bihar Restriction of Uses of Land Act, 1948 (33 of 1948).
7. The Bihar Town Planning and Improvement Trust Act, 1951 (35 of 1951).

Bombay

8. The Bombay Provincial Municipal Corporations Act, 1949 (59 of 1949).

Central Provinces

9. The C.P. & Berar Municipalities Act, 1922 (2 of 1922).
10. The Nagpur Improvement Trust Act, 1936 (36 of 1936).

Madras

11. The Madras City Municipal Act, 1919 (4 of 1919).
12. The Madras District Municipalities Act, 1920 (5 of 1920).
13. The Madras Town Planning Act, 1920 (7 of 1920).
14. The Madras District Local Boards Act, 1920 (14 of 1920).
15. The Madras City Improvement Trust Act, 1950 (37 of 1950).
16. The Madras Lignite (Acquisition of Land) Act, 1953 (11 of 1953).

Orissa

17. The Orissa Municipal Act, 1950 (23 of 1950).

Punjab

18. The Punjab Town Improvement Act, 1922 (4 of 1922).

United Provinces

19. The U.P. Town Improvement Act, 1919 (8 of 1919).
 20. The Kanpur Urban Area (Development) Act, 1945 (6 of 1945).
 21. The U.P. Roadside Land Control Act, 1945 (10 of 1945).

*Part B**Hyderabad*

22. The Hyderabad Municipal Corporation Act, 1950 (36 of 1950).
 23. The Hyderabad City Improvement Act, 1951 (35 of 1951).

Mysore

24. The City of Mysore Improvement Act, 1903 (3 of 1903).
 25. The City of Bangalore Improvement Act, 1945 (5 of 1945).

*Part C**Delhi*

26. The Delhi Restriction of Uses of Land Act, 1941 (12 of 1941).

PART II—BRIEF SUMMARY OF THE ACTS

SECTION I—CENTRAL ACTS

1. *The Indian Telegraphs Act, 1885 (XIII of 1885).*

The power to acquire under this Act is vested in the Central Government and is restricted to the user of the land and not the land itself. If there is a dispute in respect of payment of compensation for such user or in respect of apportionment of compensation, the dispute has to be referred to the District Judge and his decision is final. This Act has nothing to do with the Land Acquisition Act, 1894. The relevant sections of the Act are sections 10 and 11.

2. *The Indian Tramways Act, 1886 (XI of 1886).*

The promoter of a tramway scheme has to obtain authorisation from the Government. The authorisation order itself has to provide that the land needed may be acquired for the promoter under the provisions of the Land Acquisition Act, 1870 (now 1894) in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter. (*vide* sections 4 to 7). This Act, therefore, makes recourse to the provisions of the Land Acquisition Act obligatory, when land has to be acquired.

3. *The Indian Railways Act, 1890 (IX of 1890).*

If land belonging to another is needed for a railway administration, the acquisition has to be made under the provisions of the Land Acquisition Act. Section 9 of the Act confers power on a railway administration to enter upon another person's land for the purposes mentioned in the section, but compensation has to be paid by the railway administration for the damage, if any, caused thereby. In case of dispute the question has to be determined in accordance with the provisions of sections 11 to 15 (both inclusive), 18 to 34 (both inclusive) and sections 53 and 54 of the Land Acquisition Act. Sections 51 and 52 of the Act are also made applicable (*vide* section 4).

To a large extent, therefore, the provisions of the Land Acquisition Act, 1894 apply to cases covered by the Indian Railways Act.

4. *The Indian Works of Defence Act, 1903 (VII of 1903).*

This Act contains provisions analogous to those of the Land Acquisition Act, 1894.

5. *The Indian Electricity Act, 1910 (IX of 1910).*

Under section 57(2) of the Act, the State Government may on the application of any person not being a company desirous of obtaining any land for the purposes of his undertaking direct that he may acquire such land under the provisions of the Land Acquisition Act, 1894 in the same manner and on the same conditions as it might be acquired if the person were a company.

The word "work" occurring in section 40 sub-section (1) clause (b) and section 41 sub-section (5) of the Land Acquisition Act, 1894 is given an extended meaning as including

electrical energy supplied or to be supplied by means of the work to be constructed [*vide* section 57 sub-section (1)]. The undertaking is treated under the above provision as a "company" for the purposes of the Land Acquisition Act and the purposes for which acquisition may be made are enlarged.

6. *The Indian Forest Act, 1927 (XVI of 1927).*

The land required for any purposes of the Act is treated as a public purpose within the meaning of section 4 of the Land Acquisition Act (*vide* section 84).

7. *The Damodar Valley Corporation Act, 1948 (XIV of 1948).*

The act created a statutory corporation for the development of Damodar Valley.

Under section 50 of the Act, any land required by the Corporation for carrying out its function under the Act shall be deemed to be a public purpose and such land shall be acquired for the Corporation as if the provisions of Part VII (Acquisition of Land for Companies) of the Land Acquisition Act, 1894 (1 of 1894) were applicable to it and the Corporation. The procedure for obtaining agreement clause (e) of section 3 of the said Act.

Under section 40 of the Land Acquisition Act, the purposes for which land could be acquired for a company are very restricted. Section 50 of the Damodar Valley Act enlarges the purposes but limits them to the purposes of the Corporation. The procedure for obtaining agreement as in the case of companies is extended to it, perhaps for the reason, that though it is a State controlled Corporation its funds are separate from the State funds. Under the scheme adopted by us, such a corporation would not be a "company" within the definition proposed but the purpose would be a public purpose if the intended acquisition is for the purposes of the corporation as under section 50 above referred to. We have applied the agreement procedure to such cases by a separate section. There is, therefore, no need to treat such corporation as "company's" as under the Damodar Valley Corporation Act.

8. *The Delhi Road Transport Authority Act, 1950 (XIII of 1950).*

In section 45 of the Act, if land is required for any of the purposes of the Act, such purpose shall be deemed to be a public purpose and the acquisition could be made under

the Land Acquisition Act as if the provisions of Part VII of the Land Acquisition Act were applicable to it and the authority were a Company within the meaning of clause (e) of section 34 of the Act.

9. *The Road Transport Corporations Act, 1950*
(LXIV of 1950).

Since it deals with acquisition of undertakings which will include even movables, the principles are different and the Act has, therefore, not been taken into consideration.

10. *Slum Areas (Improvement and Clearance) Act, 1956*
(XCVI of 1956).

This Act extends to all Union territories except the Union territories of the Andaman and Nicobar Islands and the Laccadive, Minicoy and Amindive Islands.

The object of the Act is for making provisions for the improvement and clearance of slum areas in urban territories.

Chapter V of the Act provides for the acquisition of lands. If the Central Government is satisfied that it is necessary for the improvements of slum areas or to re-develop any clearance areas that land should be acquired, it may publish a notification to that effect in the Official Gazette after hearing the objections, if any, of the owner or any person interested in the land. When a notice as aforesaid is published in the Official Gazette, the land vests absolutely as and from the date on which the notice is so published, in the Central Government free from all encumbrances. Every person interested in any land acquired under this Act is entitled to receive compensation from the Central Government to be determined in the manner laid down in the Act. The principle for determining the compensation adopted by this Act is that it should be an amount equal to sixty times the net average monthly income, actually derived from such land during the period of five consecutive years immediately preceding the date of publication of the notice which has to be calculated in a manner and in accordance with the principles laid down in the Schedule. The final determination regarding the amount of net average monthly income lies with the administrator. If there is a dispute regarding apportionment of the compensation or regarding title to receive it, the matter

is to be referred to the District Judge who has to decide it.

11. *The Territorial Councils Act 1956 (CII of 1956).*

Section 61 of the Act provides that when the land is required for the use of the Territorial Council, the Central Government may, at the request of the Council, proceed to acquire it under provisions of the law relating to acquisition of land on payment, by the Council, of compensation for the land as well as the charges incurred by the Government in connection with the proceedings, and after such payment the land vests in the Council absolutely.

12. *The Coal Bearing Areas (Acquisition and Development) Act, 1957 (XX of 1957) as amended by LI of 1957.*

This Act authorises the Central Government to acquire land by issuing a notification under section 7 of the Act within one month of the issue of the notification. Any person interested in the land, may object to this. The competent authority hears objections, submits the case to the Central Government along with the reports containing recommendations on the objections. If the Central Government is satisfied, a declaration under section 9 for the acquisition of land is published in the Official Gazette. On publication of this declaration, the land vests absolutely in the Central Government and they are entitled to take possession of the land to the extent to which the compensation for the land is to be determined under section 5 sub-section (13) which affects section 9 of the Land Acquisition Act.

The method of determining compensation to persons interested, can be fixed by agreement and if that is not possible there is a Tribunal consisting of a person who is or has been qualified to be judge of a High Court. There is also provision for payment of compensation and allied matters. The act was amended by the Amending Act LI of 1957. In emergent cases under the Amending Act, it is open to the Central Government to exclude application of section 8 and make a declaration under section 9.

13. *The Delhi Development Act, 1957 (LXI of 1957).*

Chapter V (sections 15 to 23) of this Act contains the provisions for acquisition and disposal of land if the land is acquired for the Delhi Development Authority. Under

section 15 of the Act, the Delhi Development Authority is empowered to issue a notification in the Official Gazette specifying for the particular purpose for which the land is required and calling upon the owner of the land and any other person who, in the opinion of the authorities, may be interested in the land to show cause why the land should not be acquired. The Authority decides all the objections and makes an Order. Immediately after the notification is issued, it is provided in the Act that the land shall vest absolutely in the Authority free from all encumbrances. The fixation of compensation is by agreement in the first instance, and if no such agreement is possible, the matter is referred to the Collector for determination of the amount of compensation for the land acquired. The principles that should guide the Collector determining the compensation are contained in section 16, sub-section (5) of the Act. Against the decision of the Collector determining the amount of compensation, the aggrieved party is entitled to appeal to the District Judge of Delhi whose decision on appeal is final. The question of apportionment of compensation is also to be referred to the District Judge. There are also other provisions in the Act which relate to the payment of compensation, investment of the amount of compensation and so on.

SECTION II—STATE ACTS.

1. *The Calcutta Improvement Act, 1911 (5 of 1911).*

Chapter IV of the Act provides for the acquisition and disposal of land. The provisions of the Land Acquisition Act, 1894 are made applicable by this Act for acquisition of land for the purposes of the Act but with important modifications. Section 70 provides for the constitution of a Tribunal for the determination of the dispute relating to compensation and its decision is treated as an award under the Land Acquisition Act, 1894. The award made by the Tribunal is enforceable by the Small Causes Court as if it were a decree of that court. An appeal against the decision of the Tribunal is provided and it lies to the High Court. The Act also restricts the right of appeal to definite grounds. Sections 17, 23 and 24 of the Land Acquisition Act are modified under the provisions of the Act. A new section 24A is introduced which adds to the provisions of section 24. The Act, therefore, while purporting to apply the provisions of the Land Acquisition Act, makes two important departures from it firstly, in the agency it provides for the

determination of compensation and secondly, in the principles that govern the determination of compensation.

2. *The Bengal Municipal Act, 1932 (15 of 1932).*

Section 98 provides that the Provincial Government may acquire land, at the request of the Commissioners, under the provisions of the Land Acquisition Act, 1894.

3. *The Calcutta Municipal Act, 1951 (33 of 1951).*

Chapter 32 of the Act, sections 517 to 525 relate to acquisition and disposal of land and buildings. The Corporation is authorised to acquire land or building whether situate in Calcutta or not (i) for the purpose of opening out any congested or unhealthy area or of otherwise improving any portion of Calcutta, (ii) for the purpose of erecting sanitary dwellings for the purpose of executing any other scheme for providing any amenity for persons residing in Calcutta. There are also other provisions enlarging the purpose for which acquisition may be made. Under section 524 of the Act in which the Corporation is authorised by this Act to acquire, acquisition may be made under the provisions of the Land Acquisition Act, 1894 but subject, however, to the following amendments. The amendment is that the market value of any land or building to be acquired shall be deemed, for the purpose of clause first of sub-section (1) of section 23 of the said Land Acquisition Act, 1894 to be the market value according to the disposition of such land or building at the date of the publication of the declaration relating thereto under section 6 of the said Land Acquisition Act, 1894. Three provisos are added to this:—

- (i) if, within a period of two years from the date of the publication of such declaration in respect of any land or building, the Collector has not made an award under section 11 of the said Land Acquisition Act, 1894, with respect to such land or building, the owner of the land or building shall be entitled to receive compensation for the damage suffered by him in consequence of the delay;
- (ii) if the market value is specially high in consequence of the property 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 or building if put to ordinary uses;

- (iii) if the market value has been increased by means of any improvement made by the owner or his predecessor in interest within one year before the aforesaid declaration was published, 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 or building being taken under the said Land Acquisition Act, 1894.

On payment of compensation by the Corporation, the title of the property will vest with the Corporation.

4. *The Bihar and Orissa Municipal Act, 1922 (7 of 1922).*

Section 63 provides that the State Government may acquire land, at the request of the Commissioners under the provisions of the Land Acquisition Act, 1894.

5. *The Darbhanga Improvement Act, 1934 (4 of 1934).*

With few modifications, it applies the Provincial Land Acquisition Act, 1894.

6. *The Bihar Restriction of Uses of Land Act, 1948 (23 of 1948).*

The relevant provisions of the Act relating to acquisition of property are analogous to those contained in the U.P. Roadside Land Control Act, 1945 (Act 10 of 1945) with subsequent additions dealt with in that Act.

7. *The Bihar Town Planning and Improvement Trust Act, 1951 (35 of 1951).*

The provisions are similar to the Calcutta Improvement Act, 1911 already dealt with.

8. *The Bombay Provincial Municipal Corporations Act, 1949 (59 of 1949).*

Section 77 provides that the Commissioner shall acquire any immovable property on behalf of the Government by agreement on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee either generally for any class of cases or specially in any particular case. When ever the Commissioner is authorised to agree to pay the

whole or any portion of the expenses of acquiring immovable property, he shall do so on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee as aforesaid.

The Commissioner may on behalf of the Corporation acquire by agreement any easement affecting any immovable property vested in the Corporation and the aforesaid provisions shall apply to such acquisition.

Section 78 provides that whenever the Commissioner is unable to acquire immovable property by agreement, the Government may, subject to the other provisions of the Act, order proceedings for acquisition as if it were required for a public purpose within the meaning of the Land Acquisition Act, 1894.

9. *The C. P. and Berar Municipalities Act, 1922 (2 of 1922).*

The Act applies the provisions of the Land Acquisition Act, 1894 with material alterations, particularly with respect to the principles of compensation in section 23.

10. *The Nagpur Improvement Trust Act, 1936 (36 of 1936).*

It adopts the Land Acquisition Act, 1894 with modifications. It provides for the constitution of a Tribunal for determination of compensation and also amends sections 11, 15, 17, 18, 19, 20, 23 and 24 of the Act. The modifications are contained in a Schedule attached to the Act.

11. *The Madras City Municipal Act, 1919 (4 of 1919).*

Section 76 provides that any immovable property may be acquired under the provisions of the L. A. Act, 1894 and on payment of compensation awarded under the said Act.

12. *Madras District Municipalities Act, 1920 (5 of 1920).*

Section 67 provides that any immovable property may be acquired under the provisions of the Land Acquisition Act and on payment of the compensation awarded under the said Act.

13. *The Madras Town Planning Act, 1920 (7 of 1920).*

Acquisition for Town planning is deemed to be for a public purpose for which land may be acquired under the provisions of the Land Acquisition Act, 1894. The Madras Town Planning Act, 1920 applies the provisions of the Land Acquisition Act, particularly the provisions relating to the principles of compensation.

14. *The Madras District Local Boards Act, 1920* (14 of 1920).

Section 66 provides that any immovable property which any District Board is authorised by this Act to acquire may be acquired under the provisions of the Land Acquisition Act, 1894 and on payment of the compensation awarded under the said Act.

15. *The Madras City Improvement Trust Act, 1950* (37 of 1950).

It applies the provisions of the Land Acquisition Act, 1894 with modifications. It constitutes a Tribunal for the determination of the dispute relating to compensation, and the various modifications in the sections, particularly in the principles relating to compensation, are contained in a Schedule attached to the Act.

16. *The Madras Lignite (Acquisition of Land), Act, 1953* (11 of 1953).

This Act also applies the Land Acquisition Act, 1894 with modifications. Important modifications have been made in section 23.

17. *The Orissa Municipal Act, 1950* (23 of 1950).

Section 304 provides that the acquisition shall be made under the provisions of the Land Acquisition Act, 1894.

18. *The Punjab Town Improvement Act, 1922* (4 of 1922).

It applies the provisions of the Land Acquisition Act but with modifications. A Tribunal is constituted for the purpose of determining the amount of compensation if there is some dispute and further modifications in the Act are contained in a Schedule attached to the Act.

19. *The U.P. Town Improvement Act, 1919* (8 of 1919).

The Act empowers the Trust to acquire land under the provisions of the Land Acquisition Act with the previous sanction of the State Government. It also provides for the constitution of a Tribunal for determining the dispute relating to compensation, and the Schedule attached to this Act indicates the modifications effected in the Land Acquisition Act, 1894.

20. *The Kanpur Urban Area (Development) Act, 1945* (6 of 1945).

The Board constituted under the Act may, with the previous sanction of the Government, acquire land under the provisions of the Land Acquisition Act, 1894 as modified by this Act.

21. *The U. P. Roadside Land Control Act, 1945* (10 of 1945).

It also applies the provisions of the Land Acquisition Act but with modifications contained in the Schedule. The modification chiefly is in the principles of determining compensation.

22. *The Hyderabad Municipal Corporation Act, 1950* (36 of 1950).

Section 69 provides that the Commissioner shall acquire any immovable property on behalf of the Government by agreement on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee either generally for any class of cases or specially in any particular case. Whenever the Commissioner is authorised to agree to pay the whole or any portion of the expenses of acquiring immovable property, he shall do so on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee as aforesaid.

The Commissioner may, on behalf of the Corporation, acquire by agreement any easement affecting any immovable property vested in the Corporation and the aforesaid provisions shall apply to such acquisition.

Section 70 provides that whenever the Commissioner is unable to acquire immovable property by agreement, the Government may, subject to other provisions of this Act, order proceedings for acquisition as if it were required for public purpose within the meaning of the Land Acquisition Act, 1309 Fasli.

23. *The Hyderabad City Improvement Act, 1951* (35 of 1951).

Acquisition for the purpose of this Act is declared to be for a public purpose within the meaning of the Hyderabad Land Acquisition Act, 1309 Fasli. Presumably, the provisions of that Act are made applicable.

24. *The City of Mysore Improvement Act, 1903* (3 of 1903).

It contains a complete Code for the determination of compensation. It applies the provisions of the Land Acquisition Act, 1894 but also contains further provisions.

25. *The City of Bangalore Improvement Act, 1945 (5 of 1945).*

It applies the provisions of the Land Acquisition Act, 1894.

26. *The Delhi Restriction of Uses of Land Act, 1941 (12 of 1941).*

It also modifies the provisions of the Land Acquisition Act, 1894.

APPENDIX V

State Requisitioning and Acquisition Acts PART I—LIST OF ACTS

SECTION I—PRINCIPAL ACTS

- | | |
|----------------|--|
| Andhra | 1. Andhra Requisitioning of Buildings Act, 1954 (11 of 1954). |
| Assam | 2. Assam Land (Requisition and Acquisition) Act, 1948 (25 of 1948), as amended by 20 of 1950, 34 of 1950, and 33 of 1953. |
| Bihar | 3. Bihar Premises Requisition (Temporary Provisions) Act, 1949 (15 of 1950), as amended by 22 of 1951, 4 of 1953 and, 36 of 1954. |
| Bombay | 4. Bombay Land Requisition Act, 1948 (33 of 1948), as amended by 2 of 1950, 39 of 1950, 40 of 1951, 5 of 1952, 5 of 1953, 17 of 1955 and 52 of 1955. |
| Madhya Bharat | 5. M. B. Requisitioning of Immovable Property Act, 1954 (35 of 1954). |
| Madhya Pradesh | 6. C. P. and Berar Accommodation (Requisition) Act, 1948 (63 of 1948), as amended by M. P. Accommodation (Requisition) Amendment Act, 1951 (29 of 1951). |
| Madras | 7. The Madras Requisitioning and Acquisition of Immovable Property Act, 1956 (42 of 1956). |
| | 8. Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949 (23 of 1949), re-enacted by 6 of 1956. |
| Orissa | 9. Orissa Requisitioning and Acquisition of Immovable Property Act, 1952 (29 of 1952). |
| Pepsu | 10. Pepsu Requisitioning of Immovable Property Act, 2006BK (1 of 2006). |
| Punjab | 11. Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 (11 of 1953), as amended by 24 of 1954. |
| Rajasthan | 12. Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951 (29 of 1951). |
| | 13. Rajasthan Premises (Requisition and Eviction) Ordinance, 1949 (11 of 1949), as amended by Act, 18 of 1952. |

14. T. C. Requisitioning and Acquisition of Property Act, 1955 (1 of 1956). Travancore
Cochin
15. U.P. (Temporary) Accommodation Requisition Act, 1947 (25 of 1947), as amended by 13 of 1950, 22 of 1952 and 15 of 1954. Uttar Pra-
des
16. V. P. Requisitioning and Acquisition of Immovable Property Act, 1953 (4 of 1953). Vidhya
Pradesh
17. W. B. Land (Requisition and Acquisition) Act, 1948 (2 of 1948), as amended by 7 of 1951, 8 of 1954 and 25 of 1956. West Bengal
18. The W. B. Premises Requisition and Control (Temporary Provisions) Act, 1947 (5 of 1947), as amended by 4 of 1949, 15 of 1950, 10 of 1953 and 7 of 1954.
19. The Waste Lands (Requisitioning and Utilization) Act, 1952 (4 of 1952), as amended by 29 of 1954.

SECTION II.—CONTINUANCE ACTS

1. The Madhya Pradesh Requisitioned Land (Continuance of Powers) Act, 1951 (9 of 1951). Madhya
Pradesh
2. The West Bengal Requisitioned Land (Continuance of Powers) Act, 1951 (8 of 1951), as amended by 10 of 1954, 36 of 1954. West Bengal

PART II—SUMMARY

SECTION I—PRINCIPAL ACTS

1. *Andhra Requisitioning of Buildings Act, 1954,* (XI of 1954).

Section 4 enables the competent authority to requisition any building for a public purpose. Among other things, it provides that where a building which is to be requisitioned is in the occupation of a tenant or licensee, he shall be paid compensation equal to the amount of rent payable by him for the building for a period of 4 months plus reasonable expenses incurred on account of vacating the building and reoccupying another, or in lieu of such compensation 2 months notice to vacate the building. However, the liability to pay compensation or give notice would not arise if the competent authority allots to the tenant or licensee another building for his occupation.

Section 5 provides for a show cause notice with 15 days time limit before a requisition order can be made by the competent authority.

Section 7(a) provides that in no case can the period of requisition exceed 5 years.

Section 9 provides for the fixation of fair rent for the requisitioned building, if no agreement can be reached between the landlord and the competent authority regarding the rent payable. The landlord or the competent authority or the licensee may apply to the court of District Munsif having jurisdiction for fixing the fair rent for the period of requisition. The fair rent shall be assessed in the following manner. It would consist of (1) the rent payable for the use and occupation of the building if taken on lease, (2) amount necessary to compensate the landlord for (a) the pecuniary loss, (b) expenses due to vacating and reoccupying, and (c) damages caused to the building during the period of requisition, including the expenses that may be necessary to restore the building to the condition in which it was at the time of requisition. Subsection (3) provides for an appeal to the sub-court or to the district court within a period of 15 days against the

order passed by the District Munsifs court fixing the fair rent. The decision on such appeal shall be final and shall not be liable to review or revision.

Section 11 provides for appeals from orders or requisition. Persons aggrieved by order of requisition may, within 15 days, prefer an appeal to the State Government and the order of the State Government on such appeal shall be final.

2. *The Assam Land (Requisition and Acquisition) Act, 1948, (XXV of 1948)*

The above Act was amended by Acts XX of 1950, XXXIV of 1950 and XXXIII of 1953.

It seeks to provide for requisition and speedy acquisition of premises and land for certain purposes.

- (1) For maintaining supplies and services essential to the life of the community.
- (2) For providing proper facilities for accommodation, transport, communication, irrigation or drainage.
- (3) For providing land individually or in groups to landless, flood-affected or displaced persons.
- (4) To a society registered under the Indian Co-operative Societies Act, 1912 or a company incorporated under the Companies Act, 1913 formed for the benefit and rehabilitation of landless, flood-affected or displaced persons.

Section 3 provides that the Government may, by order in writing, requisition any land except those used for purpose of religious worship or charitable purposes or the building wherein the owner has actually resided for a continuous period of one year immediately preceding the order of requisition.

Within a period of 30 days, the person interested may appeal to the Government and the decision of the Government in such appeal shall be final.

Section 4 provides that the Government may, if it appears necessary, acquire the requisitioned land by publication of a notice in the Official Gazette and that the Government shall be empowered to apply to such land any of the provisions of the Land Acquisition Act of 1894 with the rules framed thereunder.

Section 7 lays down the principles for the determination of compensation. Sub-section (1) lays down that subject to sub-section (1A) whenever land is acquired under section 4, compensation shall be paid as determined by the Collector in accordance with the principles set out in sub-section (1) of section 23 of the Land Acquisition Act of 1894. The market value referred to in sub-section (1) of section 23 of the said Act shall be the market value of such land on the date of publication of notice.

Sub-section (1A) provides that in case of land included in any grant or settlement made for special cultivation, if it is lying fallow or uncultivated or is not utilized for the purpose for which a grant was made or for incidental purposes, then compensation payable for acquisition of such land together with trees thereon shall be an amount equal to ten times the annual revenue which on date of publication of notice would have been payable, if such land is or had been assessable to revenue at full rates; if any amount was originally paid to the Government by the grantee as price or premium for the land, an additional amount equal to the amount originally paid by the grantee shall also be payable.

When compensation has thus been determined under I and 1A, the Collector shall make an award in accordance with the principles laid down in section 11 of the Land Acquisition Act of 1894 which shall not include the amount referred to in sub-section (2) of section 23 of the said Act.

Where land is requisitioned under section 3, compensation shall be determined as follows:

- (1) if there is agreement, the sum agreed would be paid as compensation, or
- (2) in the absence of agreement, the compensation would be
 - (a) for requisition of land and
 - (b) for damage done during the period of requisition other than that caused by natural causes.

When a person is aggrieved by the award under sub-section (2) of section 7 or when there is disagreement as to compensation under sub-section (3) of section 7, section 8 provides that the matter shall be referred to a decision of the court and that the provisions of the Land Acquisition Act, 1894 shall *mutatis mutandis* apply in respect of any reference made to the court under sub-section (1).

3. *The Bihar Premises Requisition (temporary provisions) Act, 1949 (XV of 1950), as amended by Acts XXII of 1951, IV of 1953 and XXXVI of 1954.*

Section 3 confers the power to requisition any premises for a public purpose. It also provides for an opportunity to show cause against such order. It exempts premises used for religious, charitable or educational purposes. The order passed by the State Government requisitioning any premises shall be final.

Section 11 lays down the procedure for fixing compensation. The compensation shall be the agreed sum or in the absence of agreement the State Government shall appoint a District Judge as arbitrator. Also persons having expert knowledge may be nominated by the Government as well as the party to be compensated to assist the arbitrator to whom both of them shall state as to what would be fair compensation. In making the award, the arbitrator shall be guided by the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894. An appeal shall lie to the High Court against the order of the arbitrator. Excepting those provided under this Act, nothing in any law relating to arbitration shall apply. Compensation should also be paid for any damage done during the period of requisition other than normal wear and tear. If agreement cannot be reached even in respect of this, the matter shall be referred to the arbitrator.

Section 12 enumerates the matters to be taken into consideration in fixing compensation by agreement. They shall be the rent payable, reasonable expenses incurred due to change of residence and the damage or loss of income sustained by the person concerned between the date of service of order and the date of taking possession.

4. *Bombay Land Requisition Act, 1948 (XXXIII of 1948), as amended by Acts II of 1950, XXXIX of 1950 XL of 1951, V of 1952, V of 1953, XVII of 1955 and LII of 1955.*

Section 5 confers the power on the State Government to requisition any land for the purpose of the State or any other public purpose. It exempts buildings which have been in the actual occupation of the landlord or the tenant for a continuous period of 6 months preceding the date of order.

Section 7 lays down that, notwithstanding anything contained in the Requisitioned Land (Continuance of Powers) Act, 1947, the State Government may direct that any land which was requisitioned under that Act shall con-

tinue to be subject to requisition under this Act for any purpose of the State or any other public purpose. Further, it provides that compensation in respect of such land continued subject to requisition shall be determined and paid in accordance with the provisions of this Act, excepting those agreements and awards made in respect of land earlier.

Section 8 lays down that an officer authorised by the State Government shall hold an inquiry and determine the amount of compensation which according to him would be just. In arriving at the compensation, it is provided that he shall be guided by the provisions of sub-section (1) of section 23 and section 24 of the Land Acquisition Act, 1894. The same officer shall decide any dispute as to the apportionment of compensation.

Sub-section (3) provides that an appeal shall lie within a period of 60 days against the decision of the officer to the High Court in Greater Bombay and to the District Court elsewhere, except in cases where the total amount of compensation does not exceed an amount prescribed in this behalf by the State Government. There shall be no further appeal against this.

Section 9(c) provides that in the absence of application for compensation within the time specified, the officer may determine *ex parte* the amount of compensation and apportionment.

5. *The Madhya Bharat Requisitioning of Immovable Property Act, 1954 (XXXV of 1954).*

Section 3 provides that where the competent authority is of the opinion that property is needed for public purpose other than the purpose of the Union, it may requisition the property after the usual show cause notice with 15 days time limit to object. Properties *bonafide* used by the owner as his residence or property exclusively used for religious worship or as school or hospital, library or orphanage etc., have been exempted from requisition. Also, where the requisitioned property consists of premises used as residence by a tenant for at least 2 months preceding the date of notice, the competent authority shall provide alternative accommodation.

Section 7 provides for the principles and the method of determining compensation. Compensation shall be the amount fixed by agreement, or, in the absence of agreement, Government shall appoint as arbitrator a person qualified for appointment as a Judge of a High Court. The Govern-

ment as well as the person to be compensated may nominate assessors to assist the arbitrator before whom they shall state what in their respective opinion would be fair amount of compensation. The arbitrator shall make his award determining the compensation which in his opinion is just and also apportion, where necessary, according to the principles laid down. Nothing in the Arbitration Act, of 1940 shall apply to this case.

Compensation payable for requisitioning of any property shall consist of (a) a recurring payment equal to rent payable for the use and occupation of property for that period and (b) the sums necessary to compensate the person interested for (i) pecuniary loss due to requisitioning (ii) expenses for vacating and reoccupying the premises and (iii) damages caused to the property during the period of requisition, including expenses incurred for restoring the property to its original condition.

Section 9 provides for appeals from orders of requisition. Any person aggrieved by the order of the competent authority may, within 21 days, prefer an appeal to the Commissioner of the Division who, after giving an opportunity to be heard, shall decide and such decision shall be final.

Section 10 provides for appeals from awards in respect of compensation. Any person aggrieved by the award of the arbitrator may, within 30 days, prefer an appeal to the High Court.

6. The Central Provinces and Berar Accommodation (Requisition) Act, 1948 (LXIII of 1948) as amended by Act XXIX of 1951.

This Act enables the State Government to requisition any accommodation for the purpose of

- (i) providing residence for any person holding an office of profit,
- (ii) locating any public office of the State Government or local authority.

Section 4 lays down the principles in accordance with which payment of compensation is to be determined in respect of accommodation requisitioned under section 3.

- (i) Where there is agreement as to compensation, the amount agreed to shall be paid.

- (ii) In the absence of agreement, Government shall appoint a District Judge (or Additional District Judge or Civil Judge having jurisdiction over the area) as arbitrator.
- (iii) At the commencement of the proceedings before the arbitrator, the Government as well as the person to be compensated shall state as to what in their opinion is fair amount of compensation.
- (iv) In making the award, the arbitrator shall be guided by sub-section (1) of section 23 of the Land Acquisition Act, 1894 in so far as it can be made applicable and shall also have regard to reasonable expenses, if any, incurred by the occupier in vacating the accommodation [where such occupier is not entitled to compensation mentioned in sub-section (2A) below].
- (v) An appeal shall lie to the High Court against the award.
- (vi) Except where it is expressly provided here or under rules made thereunder, nothing in any law relating to arbitration shall apply to arbitrations under this section.

Where the accommodation requisitioned is held by a tenant, compensation shall be paid as follows:—

- (i) In the case of month to month tenancy, compensation equal to a month's rent.
- (ii) In the case of year to year tenancy or a fixed term (not exceeding one year) tenancy, compensation equal to two months' rent.
- (iii) In cases of tenancy for a fixed period exceeding an year, compensation equal to three months' rent.

7. *The Madras Requisitioning and Acquisition of Immovable Property Act, 1956 (XLII of 1956).*

Its provisions are similar to those of the Central Act, 1952.

8. *The Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949 (XXIX of 1949), re-enacted by VI of 1956.*

Section 4 provides that the State Government may, for the purpose of maintaining, increasing and securing supplies of any essential article or for the equitable distri-

bution of the same, by order in writing requisition any property. Property used for the purpose of religious worship has been exempted. It is further provided that buildings solely used for residential purposes shall not ordinarily be requisitioned.

The State Government may acquire the requisitioned property by publishing a notice in the gazette to that effect.

Section 5 deals with the procedure and principles of payment of compensation for the requisitioned or acquired property.

Compensation shall be the amount fixed by agreement, or in the absence of agreement, the State Government shall appoint as arbitrator the District Judge or Subordinate Judge having jurisdiction over the area in which the property is situate. District Judge for this purpose includes a judge of the Madras City Civil Court. Before the arbitrator the Government as well as the person to be compensated shall state what in their respective opinions is a fair amount of compensation. The arbitrator in making his award shall be guided by the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894 so far as it can be made applicable. He shall also have regard to the fact whether the acquisition is of a permanent or temporary character. It is also provided that where the requisitioned property is subsequently acquired, the arbitrator shall take into consideration the market value of the property at the date of the requisition and not at the date of its subsequent acquisition. It is also provided that an appeal shall lie to the High Court against the award of the arbitrator where the value of the subject-matter in dispute is Rs. 2000/- and above. Nothing in any law relating to arbitration shall apply to arbitrations under this section.

9. *The Orissa Requisitioning and Acquisition of Immovable Property Act, 1952 (XXIX of 1952)*

This Act provides for the requisitioning and acquisition of immovable property for purposes of the State of Orissa.

Section 3 lays down that if, in the opinion of the competent authority, property is needed or likely to be needed for any public purpose (being a purpose of the State of Orissa) he may serve a show cause notice with fifteen days time limit that such property is to be requisitioned. If,

after representation, requisitioning is deemed necessary the competent authority may do so by an order in writing.

However, exemption is granted in the following cases:

- (1) where it is used by the owner as the residence of himself or of his family,
- (2) where it is used for purposes of religious worship or as school, hospital or public library or orphanage etc.

Section 7 states that where it is found necessary, the State Government may by notification in the gazette acquire the property so requisitioned for a public purpose in the following circumstances:

- (a) where works (buildings, structures etc.) have been constructed on the property at the expense of the Government and the Government decides to preserve the same for the purposes of Government, or
- (b) where the cost of restoring the property to its original conditions that existed at the time of requisition would be excessive and the owner declines to accept release from requisition without compensation for such restoration to original condition.

The decision of the Government in respect of (a) and (b) above shall be final and shall not be called in question in a court of law.

Section 8 provides for the principles and the method of determination of compensation. The principles are as follows:—

- (a) Where there is agreement, the amount agreed to would be the compensation.
- (b) In case of disagreement, the Government shall appoint a person who is or has been or is qualified to be a District Judge as the Arbitrator.
- (c) The Government may also nominate a person who has got expert knowledge as to the nature of the property to assist the Arbitrator and likewise the person to be compensated may also nominate an assessor.
- (d) At the commencement of the proceedings before the Arbitrator, the Government as well as the person to be compensated may state as to what in their opinion is the fair amount of compensation.

- (e) After hearing, the Arbitrator shall make an award determining the amount of compensation which appears to him to be just and in making the award, he shall be guided, in so far as it is possible, by the provisions of sub-sections (2) and (3) below.
- (f) The Arbitrator shall decide the persons entitled to receive compensation as well as the apportionment.
- (g) Nothing in the Arbitration Act, 1940 shall apply to arbitration under this section.

Compensation to be paid to requisitioned property shall consist of—

- (a) a recurring payment for the period of requisition of a sum equal to the rent payable for the use and occupation of the property, and
- (b) such sums as may be necessary to compensate the person interested in respect of the following:
 - (i) pecuniary loss due to requisition;
 - (ii) expenses for vacating the premises;
 - (iii) expenses for re-occupying after release;
 - (iv) any damage other than normal wear and tear caused during the period of requisition, including expenses incurred to restore the property to the condition in which it was at the time of requisition.

Compensation payable for the acquisition of property under section 7 shall be—

- (a) the price which the requisitioned property would have fetched in the open market had it remained in the same condition as it was at the time of requisition and sold on the date of the acquisition, or
- (b) twice the price which the requisitioned property would have fetched in the open market, if it had been sold on the date of requisition, whichever is less.

Section 10 enables the person aggrieved by an order of requisition under sub-section (2) of section 3 to appeal to the State Government within 21 days from the date of the service of the order.

After calling for report from the competent authority and giving opportunity to the party of being heard, the Government may pass orders which shall be final.

Section 11 enables the person aggrieved by an award of the Arbitrator under section 8 to prefer an appeal to the High Court within 30 days of the award.

10. *Pepsu Requisitioning of Immovable Property Act, 2006 BK (I of 2006).*

Section 3 provides that the Government may requisition any immovable property, if in its opinion it is necessary or expedient to do so. Property used for religious worship and property situated in a cantonment within the meaning of any law relating thereto shall not be requisitioned.

Section 4 provides for the acquisition of the requisitioned property by the Government by means of a notice published in the Official Gazette to that effect.

Section 6 provides for the principles of compensation. Where immovable property is requisitioned or acquired compensation shall be paid as follows:

Compensation shall be the amount fixed by agreement or in the absence of agreement the Government shall appoint as arbitrator a person qualified under Article 217 (2) of the Constitution for appointment as a Judge of the High Court. The Government as well as the person to be compensated may nominate assessors to assist the arbitrator before whom the parties would state what in their opinion would be fair amount of compensation. The arbitrator in making the award shall have regard to the provisions of the law relating to the acquisition of land in force for the time being in the State so far as it can be made applicable. It is also provided that an appeal shall lie to the High Court against an award of the arbitrator except where the amount does not exceed the amount prescribed by the Government. Nothing in any law relating to arbitration shall apply to this case.

11. *The Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 (XI of 1953), as amended by Act XXIV of 1954.*

Section 3 confers power on the competent authority to requisition any property needed for any public purpose, being a purpose of the State, after giving a show cause notice with 15 days time limit. It exempts property used

by the owner as residence or used for religious worship or as school, or hospital etc. Where the property has been used by a tenant as residence for at least 2 months prior to this date, then the competent authority shall not take possession without providing alternative accommodation.

Section 7 enables the State Government to acquire the requisitioned property for a public purpose by publishing a notice to that effect in the gazette and after giving opportunity of being heard against such acquisition. Such acquisition shall be in respect of the following only:

1. Where during the period of requisition, any works have been constructed at the expense of State Government and the Government decides that it should be secured and preserved for the purpose of Government,
2. Where the cost of restoring the property to the original condition would be excessive and the owner declines to accept release from requisition without restoration to original condition.

Decision of the State Government in this respect shall be final.

Section 8 lays down the principles and the method of determining compensation. The compensation shall be the amount fixed by agreement, or in the absence of agreement, the State Government shall appoint a person having the qualifications of a Judge of a High Court as an arbitrator. The Government as well as the person concerned may nominate persons having expert knowledge to assist the arbitrator before whom they shall state what would constitute fair amount of compensation. The arbitrator shall determine what appears to him to be just compensation and also decide the apportionment. In arriving at the compensation, he shall be guided by the following:

In case of requisitioning (a) a recurring payment for the period of requisition of a sum equal to rent payable for the use and occupation of the property, (b) the amount necessary to compensate the person interested for pecuniary loss, the expenses for vacating and re-occupying, and for damages caused during the period of requisition, including expenses necessary to restore the property to the original condition.

The compensation for acquisition of the requisitioned property shall be:

- (1) the price which the requisitioned property would have fetched in the open market if it had remained in the same condition as it was at the time of requisitioning and sold on the date of acquisition, or
- (2) twice the price which the requisitioned property would have fetched in the market if it had been sold on the date of requisition, whichever is less.

Section 10 provides that the person aggrieved by an order of requisitioning made by the competent authority may, within 21 days, prefer an appeal to the State Government whose decision shall be final.

Section 11 provides that the person aggrieved by the award of the arbitrator may, within 30 days, prefer an appeal to the High Court.

12. *The Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951 (XXIX of 1951)*

It provides for the requisitioning of land for certain public purposes.

On the application by the competent authority that land is needed or likely to be needed for public purpose under section 3, the Government shall hold an enquiry under section 4 and, if satisfied may by order in writing requisition such land.

Section 6 provides for the payment of compensation which shall be determined by an officer authorized in this behalf by the Government.

In determining the same, the Officer shall be guided by the provisions contained in the Schedule which are to the following effect:

- (1) Matters to be taken into consideration in fixing the amount of compensation are the same as those mentioned in section 23 of the Land Acquisition Act. However, the provision for the 15 per cent solatium provided in the 1894 Act is deleted.
- (2) For the purposes of market value specified in para 1 above, the following is laid down:
 - (a) market value shall be according to the use to which the land was being put at the date with reference to which the market value is to

be determined; however, the element of potential value, if any, contained in the price actually paid for similar use transferred for any more lucrative use shall not be admitted;

- (b) If, before the said date, the owner had taken active steps and incurred expenditure to secure a more profitable use of the same, compensation based on his actual loss may be paid to him;
 - (c) market value which is high due to a use which is unlawful or contrary to public policy shall be disregarded in the assessment;
 - (d) any increase in market value due to improvement made within two years before the said date shall be disregarded if it was not done in good faith;
 - (e) increase or decrease in market value due to the land falling within or near to the alignment of a projected public street shall be disregarded;
 - (f) the high market value caused by the building being so overcrowded as to be dangerous to the health of inmates shall be disregarded and only such value which the building would be worth if occupied by such number of persons as the building would safely accommodate would be taken into consideration;
 - (g) for the purpose of determination of market value, the rent of the land or building shall not be deemed to be greater than the rent shown in the latest return made to the Government or local authority, provided due consideration will be given to any improvements effected after such latest return.
- (3) As regards matters that shall not be taken into consideration in determining the amount of compensation for the requisitioned land, the provisions are the same as those in Section 24 or the Land Acquisition Act of 1894.

- (4) Besides the above, in the determination of compensation the following provisions shall also be taken into account—
- (i) any interest, in land requisitioned, acquired after the date of the order under section 4 shall not entitle to any separate estimate of the value of such interest so as to increase the quantum of compensation;
 - (ii) if any building is in a defective state from sanitary point of view or otherwise, the compensation for the same shall not exceed the value of the building after restoration to good condition minus the cost of restoring the same to such good condition;
 - (iii) if a building used or likely to be used for human habitation is not reasonably capable of being made fit for human habitation, compensation shall not exceed the value of material of the building minus the cost of demolishing the building.

Under sub-clause (4) of section 6, an appeal shall lie against the decision of the officer regarding compensation as determined above to the District Judge within whose jurisdiction the requisitioned land lies and such appeal shall be made within a period of 60 days.

Section 8 provides for the payment of compensation for damage, if any, caused to the land otherwise than by reasonable use thereof or by irresistible force—such compensation to be determined by the officer mentioned above, subject to an appeal to the Government within a period of 30 days and it shall be final.

13. *The Rajasthan Premises (Requisition and Eviction) Ordinance, 1949 (XI of 1949), as amended by the Rajasthan Premises (Requisition and Eviction) Ordinance (Amendment) Act, 1952 (XVIII of 1952).*

Section 3 lays down that where it appears necessary to the competent authority that any premises is needed or likely to be needed for a public purpose he may make an order requisitioning the same. However, where the landlord is using the premises for his residence, alternative accommodation may be provided. Further, premises used

for purposes of religious worship or as school hospital etc. are exempted from such requisition.

Section 5 of the Ordinance provides that a person aggrieved by an order of requisition may, within seven days from the date of communication of the order, appeal to the authority appointed in this behalf by the Government.

Section 7 of the Ordinance dealing with compensation was substituted by section 3 of the Rajasthan Amendment Act, 18 of 1952 which lays down the following principles:

- (a) in case of agreement, compensation shall be the agreed sum;
- (b) in the absence of agreement, the Government shall fix a figure which will ensure to the land lord a 5 per cent return on the value of the premises assessed at the actual cost of construction of the premises with an adjustment to existing levels of construction cost and with due regard to the age and condition of the premises at the time of requisition;
- (c) the amount of compensation fixed as in (b) above shall be inclusive of all local rates, taxes, duties etc. imposed on the owner thereof;
- (d) if the landlord is dissatisfied with the amount fixed under clause (b), the Government shall, in consultation with the Chief Justice of Rajasthan, appoint as arbitrator, a person (qualified for appointment as District Judge) to decide whether the compensation has been correctly fixed in accordance with the principles laid down in clauses (b), (c) and (d);
- (e) in suitable cases Government may nominate a person having expert knowledge to assist the arbitrator, likewise the person to be compensated may also nominate an assessor.

14. *The Travancore Cochin Requisitioning and Acquisition of Property Act, 1955 (I of 1956).*

This Act provides for requisitioning and acquisition of property for public purposes—property covering both movable and immovable property of every kind, including any rights in and over such property.

Section 3 lays down that if the Government is of the opinion that property is needed or likely to be needed for any public purpose, the same may be requisitioned after

giving notice in writing to show cause why it should not be requisitioned and if the Government is satisfied that it is necessary to do so after inquiry and hearing of the representations made by the person interested, it may requisition the same by an order in writing.

However, property used by owner as his residence or of his family and those exclusively used for religious worship or as school, college, hospital, dispensary, library or orphanage or other similar charitable institutions or for the purposes of persons connected therewith would be exempted from such requisitioning; in case of the premises being occupied by a tenant, Government shall be under an obligation to provide an alternative accommodation.

Section 7 deals with the power to acquire requisitioned property. Any property subject to requisition may be acquired for public purpose, if necessary, by publishing a notice in the gazette to that effect and after giving an opportunity to the persons interested to make their objections.

Such acquisition can be done only in the following circumstances:—

- (a) where any works (buildings, structures, improvements etc.) have been constructed on the property during the period of requisition at the expense of Government and it is decided to keep the value and the right to use of such works for the purposes of the Government;
- (b) where the cost of restoring the property to its original condition at the time of its requisition would be excessive and the owner declines to accept the release without payment of compensation for such restoration to original condition.

The decision of the Government in respect of (a) and (b) above shall be final and shall not be called in question in any court.

Section 8 lays down the principles and the method of determining compensation.

Where immovable property is requisitioned or acquired—

- (a) if any agreement can be reached, the amount of compensation shall be the agreed sum;
- (b) in the absence of agreement Government shall appoint a person (having the qualifications of a High Court Judge) as arbitrator;

- (c) if necessary, person having expert knowledge may be nominated by the Government to assist the arbitrator; likewise, the person to be compensated may also nominate an assessor;
- (d) at the commencement of the proceedings, the Government and the person to be compensated may state as to what in their opinion would be fair amount of compensation;
- (e) after the hearing, the arbitrator shall make an award fixing the compensation which appears to him to be just and having regard to sub-sections (2) and (3) below;
- (f) apportionment shall be made by the arbitrator if there is any dispute;
- (g) provisions in the Arbitration Act, 1940 shall not apply to arbitration under this section.

Amount of compensation for requisitioning immovable property shall be :

- (a) a recurring payment for such period of a sum equal to the rent payable for the use and occupation of the same; and
- (b) the sum necessary to compensate for
 - (i) pecuniary loss due to requisitioning;
 - (ii) expenses for vacating and reoccupying;
 - (iii) damages (other than normal wear and tear) caused to such property and expenses for restoration of the property to its original condition.

Compensation for acquisition of immovable property under section 7 would be the price which the requisitioned property would have fetched in the open market had it remained in the same condition as it was at the time of requisitioning, and been sold on the date of acquisition.

Section 9 provides that the compensation payable under the award shall carry interest at 6 per cent from the date on which it becomes payable in the award.

Section 10 lays down that an appeal against the award under section 8 may be preferred to the High Court within a period of 60 days.

Section 12 lays down the principles governing compensation where movable property is requisitioned or acquired.

In case of requisitioning, rules for payment of compensation shall provide for the payment of rent or other return which the property would normally fetch if allowed to be used.

In case of acquisition, the rules shall provide for the payment of compensation at the market rate prevailing on the date of acquisition.

15. *The U.P. (Temporary) Accommodation Requisition Act, 1947 (XXV of 1947), as amended by Acts XIII of 1950, XXII of 1952 and XV of 1954.*

Section 3 enables the District Magistrate to requisition any accommodation, if it is necessary to do so in his opinion. Buildings used exclusively for religious worship have been exempted. Further, buildings in actual occupation of a person shall not be requisitioned, unless the District Magistrate is of the opinion that suitable alternative accommodation exists or has been provided to him.

Section 5 provides for the District Magistrate to pay compensation for the requisitioned accommodation if an agreement can be arrived at.

In the absence of agreement, section 6 provides that compensation shall be paid as determined by the court on a reference made to it by the District Magistrate. The court, in deciding the reference shall be guided by the provisions of sub-section (1) of section 23 of the Land Acquisition Act of 1894. The court shall also take into consideration the reasonable expenses incurred in getting accommodation. The decision of the court shall have the force of a decree.

Section 7 provides that, notwithstanding anything to the contrary in any enactment for the time being in force, no appeal or revision shall lie against the decision of the court under section 6.

16. *The Vindhya Pradesh Requisitioning and Acquisition of Immovable Property Act, 1953 (IV of 1953).*

Section 3 provides that where property is needed for any public purpose, being a purpose of the State the competent authority may requisition the same after the usual show cause notice with 15 days time limit to object. Properties bonafide used by the owner as his residence or used for religious worship or school, hospital, library, orphanage etc. have been exempted. Further, if the requisitioned property was being used as a residence by a tenant for not less than 2 months immediately preceding the date, the competent authority shall provide alternative accommodation.

Section 7 confers the power to acquire requisitioned property whenever the State Government is of the opinion that it is necessary to do so for a public purpose, by publishing a notice in the Official Gazette and after giving an opportunity of being heard. Such acquisition is confined only to two cases, firstly, where any works have been constructed on the property and the Government decides that it should be secured for the purpose of the State Government and secondly, where the cost of restoring the property to its original condition would be excessive and the owner refuses to accept release without compensation for such restoration.

Section 8 lays down the principles and methods of determining compensation. It shall be the amount fixed by agreement or in the absence of agreement the State Government shall appoint as arbitrator a person qualified to be a judge of a High Court. The party as well as the Government may nominate persons to assist the arbitrator before whom the party shall state as to what in their opinion would be fair amount of compensation. Nothing in the Arbitration Act shall apply to this case.

The compensation payable for requisitioned property shall consist of recurring payment equal to the rent payable for the use and occupation of the property and the sums necessary to compensate for (1) pecuniary loss, (2) expenses for vacating and reoccupying and (3) damages caused to the property during the period of requisition, including expenses incurred for restoring the property to the original condition.

It is also provided that where property has remained under requisition for more than 3 years, the rent payable as compensation for requisition, whether fixed at the request of the owner or otherwise, may be revised and the periodical compensation redetermined.

Compensation payable for acquisition of the requisitioned property shall be :—

- (a) the price which the requisitioned property would have fetched in the open market if it had remained in the same condition as it was and been sold on the date of acquisition, or
 - (b) twice the price which the requisitioned property would have fetched in the open market, if it had been sold on the date of requisition,
- whichever is less.

Section 10 provides for appeals from orders of requisition. Any person aggrieved by the order of the competent authority may, within 30 days, appeal to the State Government who shall decide after hearing the parties and further inquiry and such decision shall be final.

Section 11 provides for appeals from awards in respect of compensation. Any person aggrieved by an award of the arbitrator may, within 30 days of the award, prefer an appeal to the Judicial Commissioner.

17. *The West Bengal Land (Requisition and Acquisition) Act, 1948 (II of 1948), as amended by VII of 1951, VIII of 1954 and XXV of 1956.*

Under Section 3, the power to requisition is given to the State Government, or any person authorised, for two purposes (1) for maintaining supplies and services essential to the life of the community, or (2) for transport, communication, irrigation or drainage. Land used for religious worship has been exempted from the purview of requisition.

The land requisitioned under section 3 may be acquired by notification in the Official Gazette to the effect that it is required for public purpose.

Sub-sections (1) and (2) of section 7 deal with compensation to be paid for acquisition while sub-sections (3) and (4) deal with compensation in case of requisition.

Compensation for land acquired under section 4 is to be determined by the Collector according to the principles laid down in section 23 of the Land Acquisition Act of 1894 and the market value is as on the date of publication of notice mentioned in section 4. After determination, the Collector shall make an award as under section 11 of the Land Acquisition Act of 1894 and the amount specified in sub-section (2) of section 23 of that Act shall not be included in this award. However the award shall include interest at 6 per cent on the compensation amount from the date of notification to the date of payment, according to sections 31 to 33 of the Land Acquisition Act, 1894.

In case of compensation for requisition, it will include

- (a) compensation for requisition made, and
- (b) compensation for any damages done during the period or requisition.

The principles governing the determination of compensation are as follows:—

- (1) Where there is agreement, then the sum agreed would be the compensation.
- (2) Where the person is not traced or does not appear, that sum which appears to the Collector to be reasonable under the circumstances of the case would be the compensation.
- (3) In case of disagreement, the sum to be determined by the court on a reference made by the Collector under section 8 would be the compensation.

If the party is aggrieved about the award of compensation for acquisition, or in cases of requisition if the party does not consider the sum awarded as reasonable or is disagreed as to the amount, section 8 enjoining the Collector to refer the matter to the decision of the Court.

In respect of reference made to the Court, the principles set out in sub-section (1) and in clause (a) of sub-section (2) of section 7 of this Act would apply.

18. *The West Bengal Premises Requisition and Control (Temporary Provisions) Act, 1947 (V of 1947), as amended by Acts IV of 1949, XV of 1950, X of 1953 and VII of 1954.*

With the exception of premises used for religious worship, any premises may be requisitioned by the State Government for any public purpose by an order in writing and such order shall be final.

Section 11 lays down the procedure for fixing compensation.

Compensation shall be paid as follows:—

- (a) If agreement is reached, the sum agreed.
- (b) In the absence of agreement, the Government shall appoint a District Judge or an Additional District Judge as an arbitrator.
- (c) The Government may also nominate a person having expert knowledge as to the nature of the premises as an assessor; likewise, the person to be compensated may also nominate an assessor.
- (d) At the commencement of proceedings before the Arbitrator, the Government as well as the person

to be compensated may state what in their is fair amount of compensation.

- (e) The Arbitrator shall be guided by the provisions contained in section 12 below.
- (f) An appeal shall lie to the High Court against the Arbitrator's award.
- (g) Except for what is expressly provided herein or under this Act, nothing relating to arbitration shall apply to the arbitration mentioned here.

If, apart from natural wear and tear or other natural causes, any damage is done compensation shall be paid for that as well; here also in case of disagreement, arbitrator will decide the point.

Section 12 deals with matters to be considered while fixing compensation. The following factors will be taken into consideration:—

- (1) Rent payable in respect of the premises.
- (2) Reasonable expenses incidental to change of residence or business, if any, caused.
- (3) Damage or loss of income sustained between date of service of order under section 3 and date of taking possession.

19. *The Waste Land (Requisitioning and Utilization) Act, 1952 (IV of 1952), as amended by Act XXIX of 1954.*

This Act is intended to requisition waste land for certain public purposes with a view to better utilization thereof and other connected matters.

Under section 3, the Collector may, by notification in the Official Gazette, require persons interested to show cause as to why the land in question should not be requisitioned.

Section 4 enables the interested persons to petition to the Collector in response to the above notification within the specified time. They are also given the opportunity of being heard. If after inquiry and hearing, the Collector considers it necessary, he may issue the requisition order.

Section 6 provides for the arrangements to be made for better utilization of the requisitioned waste land. In respect of the said land anything ancillary or incidental to the full utilization may be done.

The sum payable under this section is not less than the compensation amount payable by the Collector under section 8.

Section 8 governs all matters relating to compensation.

Every person interested shall be entitled to compensation for so long as his interest subsists and not beyond the date of release under section 10. It shall be determined as follows :

As soon as may be, after taking of possession under section 5, the Collector shall determine.

- (a) if it is occupied by tenant or lessee
 - (i) the annual rent and cesses payable by the tenant for lessee for the land, and
 - (ii) the average net annual income derived from the land during three years immediately preceding the said date or if there is no such income, during the said period, 3 per cent of the market value of the interest of the tenant or lessee in the land on the date of notification under section 3;
- (b) if occupied by proprietor, the average annual income derived during three years immediately preceding the date and where no such income is derived, a sum equivalent to 3 per cent of market value of such land on the date of notification.
- (c) if occupied by any person other than tenant of lessee or proprietor, interested in the land, the average net annual compensation derived from such land by the person in occupation during three years preceding the date and where no such income was derived a sum equivalent to 3 per cent of market value of such land on the date of notification.

The Collector shall order payment of compensation on each anniversary of the date of taking possession under section 5 for the duration referred earlier by the State Government to the respective persons mentioned in (a), (b) and (c) above.

Section 10 lays down that in no case shall the period of requisition of waste land exceed 20 year period. Subject to this, the Collector may keep the land under requisition for

such period as to enable the person entrusted with the task of better utilization to recover any capital or recurring expenditure incurred by him and also for reasonable margin of profit.

Section 11 enables the parties aggrieved by requisition order under section 4, or eviction order under section 7 or compensation order under section 8 to appeal to the prescribed authority whose order on appeal shall be final and cannot be challenged in a court of law.

SECTION II—CONTINUANCE ACTS

1. *The Madhya Pradesh Requisitioned Land (Continuance of Powers) Act, 1951 (IX of 1951)*

In respect of lands requisitioned under the Defence of India Act, 1939 (since expired), the Requisitioned Land (Continuance of Powers) Ordinance, 1956 and the Requisitioned Land (Continuance of Powers) Act, 1947 provided for the continuance of such powers of requisition. With the expiry of the 1947 Act, the present Act of 1951 was passed to enable to keep the requisitioned land under requisition.

According to section 5, any requisitioned land which continues to be subject to requisition under this Act may be acquired by publication of notice in the Gazette in the following cases :

- (a) where any works (buildings, structures etc.) have been constructed on the said land at the expense of the Government and the Government decides to preserve the value and the right to use of such works for Government purposes; or
- (b) where the cost of restoring the land to the original condition that existed at the time of requisitioning would be excessive and the owner declines to accept release from requisition without compensation from Government for which restoration to original condition.

The decision of the Government in respect of (a) and (b) above shall be final and cannot be challenged in a court of law.

Section 6 provides for compensation for continued requisition as well as for acquisition of requisitioned land.

Compensation in respect of the continued subjection of requisitioned land to requisition shall be determined in accordance with section 19 of the Defence of India Act, 1939 and rules made thereunder.

Compensation for acquisition of requisitioned land would be

- (a) a sum sufficient to purchase at the market value prevailing on the date of notice under section 5 a piece of land equal in area to and situated within a distance of three miles from the acquired land, and suitable for the same use as that to which the acquired land was being put immediately before the date of its requisition, or
- (b) a sum equivalent to twice the market value of the acquired land on the date of requisition, whichever is less.

Such amount shall be determined and paid according to the procedure laid down in section 19 of the Defence of India Act, 1939 and rules made thereunder.

2. *The West Bengal Requisitioned Land (Continuance of Powers) Act, 1951 (VIII of 1951), as amended by Acts X of 1954 and XXXVI of 1954.*

This is an Act to provide for the continuance of powers exercisable under the Defence of India Act, 1939 (since expired) in respect of land requisitioned thereunder.

In respect of immovable property subject to requisition effected under rules made under the Defence of India Act, 1939 and other ordinance etc. notwithstanding the expiry of the period of operation of the said Act, all requisitioned land will continue to be subject to requisition.

Section 5 as amended by the 1954 Acts provides as follows :—

- (1) If the requisition land is decided to be acquired for public purpose, the State Government may do so by publication of notice in the Official Gazette after giving opportunity to the party to prefer objections to such acquisition and of being heard. This may be done in the following circumstances :—
 - (a) where works buildings, structures etc.) have been constructed on the requisitioned land at the expense of the Government and the Government decides to preserve the value and

the right to use of such work for Government purposes, or

- (b) where the cost of restoring the land to the conditions prevailing at the time of requisition will be excessive and the owner refuses to accept release from requisition without compensation for such restoration to original condition.

Decision in respect of (a) and (b) above of the State Government shall be final and cannot be challenged in a court of law.

Section 6 lays down that in case of continued subjection to requisition, compensation shall be according to section 19 of the Defence of India Act, 1939 and the rules made thereunder.

In case of acquisition of such land, it was provided in 1951 Act as follows :—

The amount of compensation shall be

- (i) such sum as would be sufficient to buy at market rate prevailing on date of notice under section 5 a piece of land equal in area to, and situated within the distance of three miles from the acquired land and suitable for the same use to which the acquired land was being put immediately before the date of requisition, or
- (ii) a sum equivalent to twice the market value of the land on the date of requisition,

whichever amount is less.

This is to be determined according to section 19 of the Defence of India Act, 1939.

The above principles embodied in section 6 of the 1951 Act were substituted by the following provision contained in Act X of 1954.

The amount of compensation would be—

- (1) the price which the requisitioned land would have fetched in the open market, if it had remained in the same condition as it was on the date of requisitioning and had been sold on the date of acquisition, or
- (2) twice the price which the requisitioned land would have fetched in the open market, if it had been sold on the date of requisition,

whichever amount is less.

PART III—TABULAR STATEMENT

Central Act	State Acts
I.—POWER TO REQUISITION	
<p><i>The Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952).</i></p> <p>Section 3. (1) Where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the Union and that the property should be requisitioned, the competent authority—</p> <p>(a) shall call upon the owner or any other person who may be in possession of the property by notice in writing (specifying therein the purpose of the requisition) to show cause within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned; and</p> <p>(b) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the competent authority, dispose of or structurally alter the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.</p> <p>(2) If, after considering the cause if any, shown by any person interested in the property or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order in writing, requisition the property and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:</p> <p>Provided that no property or part thereof—</p> <p>(a) which is bonafide used by the owner thereof as the residence of himself or his family; or</p> <p>(b) which is exclusively used either for religious worship by the public or as a school, hospital, public library or an orphanage or for the purpose of accommodation of person connected with the management of such place of worship or such school hospital, library or orphanage shall be requisitioned :</p>	<p>1. <i>The Andhra Requisitioning of Buildings Act, 1954 (II of 1954):</i> Section 4 enables the competent authority to requisition any building for public purpose with the obligation on the part of the authority to pay 4 month's rent and reasonable expenses for vacating and reoccupying as compensation, or 2 months notice instead where the building is in the occupation of a tenant or licensee. The usual show cause notice with 15 days time limit to object is also provided. Requisition can in no case exceed 5 years.</p> <p>2. <i>The Assam Land (Requisition & Acquisition Act, 1948 (XXIV of 1948) as amended:</i> This seeks to provide for requisition and speedy acquisition for maintaining service essential to the community and transport irrigation, etc. Excepting land used for religious or charitable purpose and building occupied by the owner for at least one year prior to the order, Government may requisition for the purposes specified.</p> <p>3. <i>The Bihar Premises Requisition (Temporary Provisions) Act, 1949 (XV of 1950) as amended:</i> Section 3 provides for requisition of any premises for public purpose with the usual show cause notice etc. Premises used for religious, charitable and educational purposes are exempted. The requisitioning order passed by the State Government shall be final.</p> <p>4. <i>The Bombay Land Requisition Act, 1948 (XXXIII of 1948) as amended:</i> Section 5, confers the power on the State Government to requisition any land for State or public purpose. It exempts building in the actual occupation of the landlord or tenant for a period of 6 months prior to the date of order. Section 7 enables the Government to continue to keep under requisition any land requisitioned under the Continuance or Powers Act, 1947.</p> <p>5. <i>The Madhya Bharat Requisitioning of Immovable Properties Act, 1954 (XXXV of 1954) :</i> Same as Central Act.</p> <p>6. <i>The C. P. & Berar Accommodation (Requisition) Act, 1948 (LXIII of 1948):</i> This Act enables the State Government to requisition any accommodation for providing residence to persons holding office of profit or for locating public office, etc.</p>

Central Act

State Acts

Provided further that where the requisitioned property consists of premises which are being used as a residence by a tenant for not less than two months immediately preceding the date of the service of notice under sub-section (1), the competent authority shall provide such tenant with alternative accommodation which, in its opinion, is suitable.

7. *The Madras Requisitioning and Acquisition of Immovable Property Act, 1956 (XLII of 1956)* : Same as Central Act.
8. *The Madras Essential Article Control & Requisition (Temporary Power) Act 1949 XXIX of 1949, re-enacted by (VI of 1956)*: Section 4 enables the State Government to requisition any property for the purpose of maintaining supplies of any essential article etc. Property used for religious worship and for residential purposes has been exempted.
9. *The Orissa Requisitioning and Acquisition of Immovable Property Act, 1952 (XXIX of 1952)* : Same as Central Act.
10. *Pepsu Requisitioning of Immovable Property Act, 2006 Bk. (1 of 2006)*. If in its opinion it is necessary or expedient to do so the State Govt. may requisition any immovable property excepting those used for religious worship and those situated the cantonment area.
11. *The Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 (XI of 1953) as amended* : Same as Central Act.
12. *The Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951 (XXIX of 1951)*: On application by the competent authority the Government after holding an inquiry and on being satisfied may requisition land for public purpose.
13. *The Rajasthan Premises (Requisition and Eviction) Ordinance, 1949 (XI of 1949) as amended by Act 18 of 1952* : The competent authority may requisition any premises (except those used for religious worship, school, etc.) for public purpose.
14. *The T. C. Requisitioning and Acquisition of Property Act, 1955 (1 of 1956)*: Same as Central Act.
15. *The U.P. Temporary Accommodation Requisition Act, 1947 (XXV of 1947) as amended*: If in his opinion it is necessary to do so the District Magistrate may requisition any accommodation excepting those used for religious worship or those in actual occupation of the person.
16. *The V. P. Requisitioning and Acquisition of Immovable Property Act, 1953 (IV of 1953)* : Same as Central Act.

Central Act

State Acts

17. *The West Bengal Land Requisition & Acquisition) Act, 1948 (II of 1948) as amended* : For maintaining supplies essential to the life of the community or for transport etc. the State Government or any other person authorised in this behalf may requisition any land excepting those used for religious worship.
18. *The W. B. Premises Requisition and Control (Temporary Provisions) Act, 1947 (V of 1947) as amended* : With the exception of premises used for religious worship any premises may be requisitioned by State Government for any public purpose and such order shall be final.
19. *The Waste Land (Requisitioning and Utilisation) Act, 1952 (IV of 1952) as amended* : The Collector after usual show cause notice, inquiry and hearing may requisition my waste land for certain public purposes with a view to better utilisation thereof.

Continuance Acts

1. *The M. P. Requisitioned Land (Continuance of Powers) Act, 1951 (IX of 1951)* This Act was passed to enable to keep the land requisitioned under the Defence at lands Act, 1939 under continued requisition.
2. *The West Bengal Requisitioned Land Continuance of Powers) Act, 1951 (VIII, of 1951) as amended* : This was passed for the continuance of powers exercisable under the Defence of India Act 1939 in respect of land requisitioned thereunder.

II. POWER TO ACQUIRE REQUISITIONED PROPERTY

The Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1962).

Section V.—Where any property is subject to requisition the Central Government may, if it is of opinion that it is necessary to acquire the property for a public purpose, at any time acquire such property by publishing in the Official Gazette a notice to the effect that the Central Government has decided to acquire the property in pursuance of this Section :

Provided that before issuing such notice, the Central Government shall call upon the owner of, or any other person who, in the opinion of the Central Government, may be interested in such property to show cause why the property should not be acquired; and after considering the cause,

1. *The Andhra Pradesh Requisitioning of Building Act, 1954, (XI of 1954)* : No provision for subsequent acquisition.
2. *The Assam Land Requisition & Acquisition Act, 1948 (XXV of 1948)* : If necessary the Government may acquire the requisitioned land by notification in the Official Gazette and apply the provisions of the L. A. Act, 1894.
3. *The Bihar Premises Requisition (Temporary Provisions) Act, 1949 (XV of 1950) as amended* : No provision for subsequent acquisition.
4. *The Bombay Land Requisition Act, 1948 (XXXIII of 1948) as amended*—No provision for subsequent acquisition.

Central Act

State Acts

if any, shown by any person interested the property and after giving the parties an opportunity of being heard, the Central Government may pass such orders as it deems fit.

(2) When a notice as aforesaid is published in the Official Gazette the requisitioned property shall on and from the beginning of the day on which the notice is published, vest absolutely in the Central Government free from all encumbrances and the period of requisition of such property shall end.

(3) No property shall be acquired under this section except in the following circumstances, namely:—

(a) where any works have, during the period of requisition, been constructed on, in or over, the property wholly or partially at the expense of the Central Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of Government ; or

(b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Central Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(4) Any decision or determination of the Central Government under sub-section (3) shall be final and shall not be called in question in any court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

5. *The Madhya Bharat Requisitioning of Immovable property Act, 1954 (XXXV of 1954)* : No provision for subsequent acquisition.
6. *The C. P. & Berar Accommodation (Requisition) Act, 1948 (LXIII of 1948)*: No provision for subsequent acquisition.
7. *The Madras Requisitioning and Acquisition of Immovable Property Act, 1956 (XLII of 1956)* : Same as Central Act.
8. *The Madras Essential Article Control & Requisition (Temporary Powers) Act, 1949 (XXIX of 1949) re-enacted by (VI of 1956)* : The Government may acquire requisitioned property by notification in the Official Gazette.
9. *The Orissa Requisitioning and Acquisition of Immovable Property Act, 1952 (XXIX of 1952)* : Same as Central Act.
10. *Pepsu Requisitioning of Immovable Property Act, 2006 Bk. (1 of 2006)* The Government may acquire requisitioned property by notification in the Official Gazette to that effect.
11. *The Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 (XI of 1953) as amended* : Same as Central Act.
12. *The Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951 (XXIX of 1951)* : No provision for subsequent acquisition.
13. *The Rajasthan Premises (Requisition and Eviction) Ordinance, 1949 (XI of 1949) as amended by the Act 18 of 1952* : No provision for subsequent acquisition.
14. *The T. C. Requisitioning and Acquisition of Property Act, 1955 (I of 1956)* : Same as Central Act.
15. *The U. P. (Temporary Accommodation Requisition Act, 1947 (XXV of 1947) as amended* : No provision for subsequent acquisition.
16. *The V. P. Requisitioning and Acquisition Immovable Property Act, 1953 (IV of 1953)* : Same as Central Act.
17. *The West Bengal Land Requisition & Acquisition) Act, 1948 (II of 1948) as amended* : The requisitioned land may be acquired by notification in the Official Gazette to that effect if required for public purpose.

Central Act	State Acts
	18. <i>The W. B. Premises Requisition and Control (Temporary Provisions) Act, 1947 (V of 1947)</i> : No provision for subsequent acquisition. 19. <i>The Waste Land (Requisition and Utilisation) Act, 1952 (IV of 1952) as amended</i> : No provision for subsequent acquisition.
	<i>Continuance Acts</i>
	1. <i>The M. P. Requisitioning Land (Continuance of Powers) Act, 1951 (IX of 1951)</i> : Same as Central Act. 2. <i>The West Bengal Requisitioned Land (Continuance of Powers) Act, 1951 (VIII of 1951) as amended</i> : Same as Central Act.
III.—COMPENSATION	
<i>The Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952)</i> :	1. <i>The Andhra Requisitioning of Buildings, Act, 1954 (XI of 1954)</i> : In the absence of agreement, the court shall fix the fair rent which shall be the same as in sub-section (2) of section 8 of the Central Act.
<i>Section 8, Sub-section (1).</i> —Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—	2. <i>The Assam Land (Requisition & Acquisition) Act, 1948 (XXV of 1948) as amended</i> : The compensation amount shall be determined by the Collector according to the principles in section 23(1) of the Land Acquisition Act, 1894, the marked value being as on the date of publication of notice under section 4(1). In the absence of agreement, the compensation amount would be for the requisition and any damage done during such period and it shall not include the 15% specified in section 23(2) of the Land Acquisition Act, 1894.
(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;	3. <i>The Bihar Premises Requisition (Temporary Provisions) Act, 1949 (XV of 1950) as amended</i> : Excepting that a District Judge shall be the arbitrator, the provisions relating to compensation are the same as those in the Central Act, 1952 relating to requisition. It is also provided that the arbitrator shall have regard to the provisions in section 23(1) of the L.A. Act, 1894.
(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as a Judge of a High Court ;	4. <i>The Bombay Land Requisition Act, 1948 (XXXIII of 1948) as amended</i> : Compensation shall be determined by the officer authorised by the State Government according to the provisions of section 23(1) and 24 of the L.A. Act, 1894 in so far as they can be made applicable.
(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose ;	5. <i>The M. B. Requisitioning of Immovable Property Act, 1954 (XXXV of 1954)</i> : Same as the Central Act excepting for the commission of sub-section (3) of section 8 of the Central Act, since the State Act does not provide for subsequent acquisition.
(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation ;	
(e) the arbitrator shall, after hearing the dispute make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and is making the award	

Central Act

State Acts

he shall have regard to the circumstances of each case and the provisions of sub-section (2) and (3), so far as they are applicable ;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons ;

(g) nothing in the Arbitration Act, 1940 (X of 1940) shall apply to arbitration under this section.

Sub-Section (2).—The amount of compensation payable for the requisitioning of any property shall consist of—

(a) a recurring payment in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period ; and

(b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely :

(i) pecuniary loss due to requisitioning ;

(ii) expenses on account of vacating the requisitioned premises ;

(iii) expenses on account of re-occupying the premises upon release from requisition ; and

(iv) damages (other than normal wear and tear caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.

Sub-section (3).—The compensation payable for the acquisition of any property under section 7 shall be—

(a) the price which the property would have fetched in the open market; if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or

(b) twice the price which the requisitioned property would have fetched

6. *The C. P. & Berar Accommodation (Requisition) Act, 1948 (LXIII of 1948)* : It is provided that a District Judge shall be an arbitrator and he shall have regard to provisions of section 23(1) of the L.A. Act, 1894 in so far as it can be made applicable.

Where the requisitioned accommodation is held by a tenant, the compensation payable to the tenant shall be 1 month's rent in case of month to month tenancy, 2 month's rent in case of tenancy for a fixed period not exceeding one year and 3 month's rent in case of tenancy exceeding one year.

7. *In Madras Requisitioning and Acquisition of Immovable Property Act, 1956 (XLII of 1956)* : Same as the Central Act.

8. *The Madras Essential Articles Control & Requisitioning (Temporary Powers) Act, 1949 (XXIX of 1949), re-enacted by (VI of 1956)* : A District Judge shall be the arbitrator and the arbitrator shall be guided by section 23(1) of L.A. Act, 1894 in so far as it can be made applicable. In case of subsequent acquisition the market value of the property shall be as on the date of requisition and not at the subsequent acquisition.

9. *The Orissa Requisitioning and Acquisition of Immovable Property Act, 1952 (XXIX of 1952)* Excepting that the District Judge is an arbitrator the provisions are exactly similar to those of the Central Act.

10. *Pepsu Requisitioning of Immovable Property Act, 2006 Bk. (I of 2006)* : The arbitrator, with qualifications to be a judge of a High Court, in making his award shall be guided by the provisions of the law relating to acquisition in force for the time being in the State in so far as it can be made applicable.

11. *The Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 (II of 1953)* : The provisions are exactly similar to those of Central Act of 1952. A new sub-section is added enabling the payment of compensation either in money or in kind when property is acquired in connection with the capital of the State of Punjab.

12. *The Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951 (XXIX of 1951)* : The provisions relating to compensation as laid down in the schedule are the same as those in sub-section (1) of section 23 and section 24

Central Act	State Acts
<p>in the open market if it had been sold on the date of requisition, whichever is less.</p>	<p>of the L.A. Act, 1894. Some provisions regarding the increase in market value due to unlawful uses or overcrowding of the building etc. (which are discussed in detail in the summary of the Act in Appendix V) have also been added.</p>
	<p>13. <i>The Rajasthan Premises (Requisition and Eviction) Ordinance, 1949 (XI of 1949) as amended by the Act (XVIII of 1952):</i> The arbitrator who shall be a District Judge and appointed in consultation with the Chief Justice of Rajasthan shall determine the amount of compensation, which shall be a sum which will ensure to the landlord a return of 5% per annum on the value of the premises which shall be assessed at the actual cost of construction or the estimated cost as the case may be with any adjustment to current level of construction cost and with due regard to the age and condition of the premises at the time of requisition.</p>
	<p>14. <i>The T. C. Requisitioning and Acquisition of Property Act, 1955 (I of 1956).</i> The provisions are the same as those in the Central Act, 1952 excepting for the omission of clause (b) of sub-section (3) of section 8.</p>
	<p>15. <i>The U. P. (Temporary Accommodation) Requisition Act, 1947 (XXV of 1947) as amended:</i> In the absence of agreement between the District Magistrate and the owner of the accommodation, the court to which a reference has been made by the District Magistrate shall determine the compensation having regard to provisions of section 23(I) of the L.A. Act, 1894 in so far as it can be made applicable which shall also include the reasonable expenses incurred by the owner in vacating the premises.</p>
	<p>16. <i>The V. P. Requisitioning and Acquisition of Immovable Property Act, 1953 (IV of 1953):</i> The provisions are exactly similar to those of the Central Act, 1952. It is also provided that in cases of requisition for more than 3 years the amount of compensation shall be revised and redetermined periodically.</p>
	<p>17. <i>The W. B. Land (Requisition & Acquisition) Act, 1948 (II of 1948) as amended:</i> In cases of requisition, the amount of compensation shall be in respect of requisition and any damage done during the period of requisition.</p>
	<p>In case of acquisition, the compensation, shall be determined in accordance with the principles of section 23(I) of the L.A.</p>

Central Act

State Acts

- Act of 1894 and it shall not include 15% specified in sub-section (2) thereof.
18. *The W.B. Premises Requisition and Control (Temporary Provisions) Act, 1947 (V of 1947)* : Excepting that a District Judge is to be the arbitrator, the provisions are similar to those in the Central Act, 1952 in so far as it relates to requisition.
 19. *The Waste Land (Requisitioning and Utilisation) Act, 1952 (IV of 1952) as amended* : In respect of requisition of waste land, detailed provisions relating to compensation are laid down in the Act. [See Waste Lands (Requisition and Utilisation) Act, 1952, a summary of which is given in Appendix V].

Continuance Acts

1. *The M. P. Requisitioning Land (Continuance of Powers) Act, 1951 (IX of 1951)*: Compensation in respect of requisition shall be determined in accordance with the provision of section 19 of the Defence of India Act, 1939.

In respect of subsequent acquisition compensation payable shall be the sum sufficient to purchase at prevailing market rate as on date of notice a piece of land equal in area to and situated within the distance of 3 miles from the acquired land and suitable for the same use or a sum equal to twice the market value of the acquired land on the date of the requisition, whichever is less.

2. *The West Bengal Requisition Land (Continuance of Powers) Act, 1951 VIII of 1951 as amended* : Compensation in respect of requisition shall be determined according to the principles laid down in section 19 of the Defence of India Act, 1939.

In respect of acquisition the compensation payable shall be the amount which the requisitioned land would have fetched in the open market had it remained in the same condition as it was sold on the date of acquisition or twice the price which the requisitioned land would have fetched in open market if it had been sold on the date of requisition, whichever is less.

IV.—APPEAL FROM ORDERS OF REQUISITIONING

The Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952).

Section 10—(1) Any person aggrieved by an order of requisition made by the competent authority under sub-section (2) of section 3 may, within twenty-one days from the date of service of the order, prefer an appeal to the Central Government :

1. There is no provision regarding appeals in the following Acts :—

The Bombay Land Requisition Act, 1948 (XXXIII of 1948) as amended. The C.P. & Berar Accommodation (Requisition) Act, 1948 (LXIII of 1948). The Madras Essential Articles Control & Requisition (Temporary Powers) Act, 1949 (XXIX of 1949), re-enacted by (VI of 1956).

Central Act

State Acts

Provided that the Central Government may entertain the appeal after the expiry of the said period of twenty one days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under subsection (1), the Central Government may, after calling for a report from the competent authority and giving an opportunity to the parties of being heard and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the Central Government shall be final.

Pepsu Requisitioning of Immovable Property Act, 2006 Bk. (1 of 2006).

The Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951 (XXIX of 1951).

The U. P. (Temporary Accommodation) Requisition Act, 1947 (XXV of 1947) as amended.

The W. B. Land (Requisition & Acquisition) Act, 1948 (II of 1948) as amended.

The W. B. Premises Requisition and Control (Temporary Provisions) Act, 1947 (V of 1947).

The M. P. Requisitioned Land (Continuance of Powers) Act, 1951 (IX of 1951).

The W. B. Requisitioned Land (Continuance Powers Act, 1951 (VIII of 1951) as amended.

II. Provisions similar to those of the Central Act are contained in the following Acts :--

The Madras Requisitioning and Acquisition of Immovable Property Act, 1956 (XLII of 1956).

The Orissa Requisitioning and Acquisition of Immovable Property Act, 1952 (XXIX of 1952).

The Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 (XI of 1953) as amended.

The V. P. Requisitioning and Acquisition of Immovable Property Act, 1953 (IV of 1953).

III. MISCELLANEOUS

The Andhra Requisitioning of Building Act, 1954 (XI of 1954) : Persons aggrieved by the order may prefer an appeal to the State Government whose decision shall be final.

The Assam Land (Requisition and Acquisition) Act, 1941 (XXV of 1948) as amended : Persons aggrieved by the order may appeal to the Government whose decision shall be final.

The Bihar Premises Requisition (Temporary Provisions) Act, 1949 (XV of 1950) as amended : There is no appeal against the order of requisition passed by the State Government.

The M. B. Requisitioning of Immovable Property Act, 1954 (XXXV of 1954) : Just as in the Central Act, an appeal lies against the order of requisition but it is to the Commissioner of the Division whose decision shall be final.

Central Act

State Acts

The Rajasthan Premises (Requisition & Eviction) Ordinance, 1949 (XI of 1949) amended by Act 18 of 1952 : An appeal lies to the authority appointed by the Government.

The T. C. Requisitioning and Acquisition of Property Act, 1955 (I of 1956) : There is a provision empowering the Government to delegate any power conferred on them by this Act to an officer or authority subordinate to the Government. So in case the power to requisition is exercised by any officer or authority subordinate to the Government appeal shall lie from the order of requisitioning to the Government.

The Waste Lands Requisitioning and Utilisation Act, 1952 (IV of 1952) as amended : Against an order of requisitioning an appeal lies to the prescribed authority whose decision shall be final and cannot be challenged in the court of law.

V. APPEAL FROM AWARDS OF COMPENSATION

The Requisitioning and Acquisition of Immovable Property Act, 1952 (XXX of 1952) :

Section 11.—Any person aggrieved by an award of the arbitrator made under section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situate : Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

I. Provisions similar to those of the Central Act are contained in the following Acts :

The M. B. Requisition of Immovable Property Act, 1954 (XXXV of 1954).

The Madras Requisitioning & Acquisition of Immovable Property Act, 1956 (XLII of 1956).

The Orissa Requisitioning & Acquisition of Immovable Property Act, 1952 (XXIX of 1952).

The Punjab Requisitioning & Acquisition of Immovable Property Act, 1953 (XI of 1953) as amended.

The T. C. Requisitioning & Acquisition of Property Act, 1955 (I of 1956).

II. In the following Acts appeal lies to the High Court against the award :—

The Bihar Premises Requisition (Temporary Provisions) Act, 1949 (XV of 1950) as amended.

The C. P. & Bevar Accommodation (Requisition) Act, 1948 (LXIII of 1948).

The Pepsu Requisitioning of Immovable Property Act, 2006 Bk. (I of 2006).

The Madras Essential Articles Control & Requisition (Temporary Powers) Act, 1949 (XXIX of 1949), re-enacted by (VI of 1956).

Central Act

State Acts

The W. B. Premises Requisition & Control (Temporary Provisions) Act, 1947 (V of 1947).

III. MISCELLANEOUS

The Andhra Requisitioning of Buildings Act, 1954 (XI of 1954) : Against the decision of the District Munsif fixing the fair rent, an appeal lies to the sub-court or to the district court and such decision shall be final and not liable to review or revision.

The Assam Land (Requisition and Acquisition) Act, 1948 (XXV of 1948) : When a person is aggrieved by the award, the matter shall be referred to the court and the provisions of the L. A. Act, 1894 would apply.

The Bombay Land Requisitioning Act, 1948 (XXXIII of 1948) as amended : Against the award of the officer authorised in this behalf by the Government, an appeal shall lie within 60 days to the High Court in Greater Bombay and to the District Court elsewhere except where the total amount of compensation does not exceed the amount prescribed by the Government and there shall be no further appeal.

The Rajasthan Requisitioning of Land (Improvement of Agriculture) Act, 1951 (XXIX of 1951) : An appeal against the decision of the officer regarding compensation lies to the District Judge. As regards compensation for damage caused to the land, the decision of the officer (subject to an appeal to the Government) shall be final.

The Rajasthan Premises (Requisition and Eviction) Ordinance, 1949 (XI of 1949) as amended by Act XVIII of 1952 : There is no provision regarding appeal.

The M. P. Requisitioned Land (Continuance of Powers) Act, 1951 (IX of 1952) : There is no provision regarding appeal.

The W. B. Requisitioned Land (Continuance of Powers) Act, 1951 (VIII of 1951) as amended : There is no provision regarding appeal.

Central Act	State Acts
	<i>The U. P. (Temporary Accommodation) Requisition Act, 1947 (XXV of 1947) as amended</i> : Compensation is to be determined by the court on a reference made to it by the District Magistrate and it is provided that no appeal or revision shall lie against such decision.
	<i>The V. P. Requisitioning and Acquisition of Immovable Property Act, 1953 (IV of 1953)</i> : An appeal against the award lies to the Judicial Commissioner.
	<i>The W. B. Land (Requisition and Acquisition) Act, 1948 (11 of 1948) as amended</i> : It is provided that if the party is aggrieved by the award of compensation by the Collector, the matter shall be referred to the decision of the Court.
	<i>The Waste Lands (Requisitioning and Utilisation) Act, 1952 (IV of 1952) as amended</i> : Persons aggrieved by the compensation order may appeal to the prescribed authority whose decision shall be final and cannot be challenged in a court of law.
