

JOINT SELECT COMMITTEE REPORTS OF LEGISLATIVE ASSEMBLY - 1923

The Land Acquisition (Amendment) Bill

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1923.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Cotton Transport Bill.	15.1.23.)	
2.	The Cantonment(House Accommodation)Amendment Bill.	15.1.23.)	Reports of
3.	The Indian Boilers Bill.	15.1.23.)	the Joint
4.	The Indian Mines Bill.	16.1.23.)	Committee
5.	The Workmen's Compensation Bill.	24.1.23.)	
6.	The Indian Official Secrets Bill.	31.1.23.	
7.	The Married Women's Property Bill by Mr. B.S. Kamet.	8.2.23.	
8.	The Indian Penal Code(Amendment) Bill(White Slave Traffic)	8.2.23.	
Temporary Bills presented in 1923.			
9.	The Indian Cotton Cess Bill.	14.7.23.	-do-
10.	The Code of Civil Procedure(Amendment) Bill by Dr. Hari Singh Gour.	20.2.23.	
11.	The Hindu Law of Inheritance(Amendment) Bill by Mr. T.V. Seshagiri Ayyar.	14.3.23.	No copy avai
12.	The Exclusion from Inheritance Bill by Mr. T.V. Seshagiri Ayyar.	14.3.23.	
13.	The Code of Criminal Procedure(Amendment) Bill (Sec.4) By Mr. Abul Kasem.	14.3.23.	
14.	The Civil Marriage (Amendment) Bill by Dr. Hari Singh Gour.	14.3.23.	
15.	The Mussalman Takf Registration Bill by Mr. Abul Kasem.	15.3.23.	
16.	The Abolition of Transportation Bill.	3.7.23.	
17.	The Indian Stamp (Amendment) Bill.	10.7.23.	
18.	The Indian Naturalization Bill.	10.7.23.	
19.	The Land Acquisition (Amendment) Bill.	16.7.23.	
20.	The Cantonments Bill.	18.7.23.	
21.	The Code of Civil Procedure(Amendment) Bill by Mr. Girdhari Lal Agarwal.	24.7.23.	
22.	The Legal Practitioners Bill by Mr. K.C. Neogi.	24.7.23.	
23.	The Illegitimate Sons' Rights Bill by Mr. K. Reddi Guru.	27.7.23.	

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill further to amend the Land Acquisition Act, 1894, for certain purposes was referred, have considered the Bill, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have made only three substantive amendments in the Bill, and to these we proceed to refer in detail. The remaining amendments are merely of a consequential nature.

Clause 1.—In view of the fact that some time must necessarily elapse after this Bill becomes law before its provisions are widely known, we consider it necessary to insert a commencement clause under which the Government of India will be able to bring the Act into operation as soon as is conveniently possible.

Clause 3.—The only object of the amendment which we have introduced in sub-section (2) of the proposed new section 5A is to make it clear that the Collector shall be entitled to make any informal inquiries which he considers necessary before or after hearing the objector. A further suggestion was made in regard to this clause that the Collector should be aided by assessors in any case in which the objector might so require. We have considered this suggestion with great care, and have by a majority rejected it for various reasons, amongst others on the grounds that in a large number of cases it would be a practical impossibility to obtain assessors who would be both willing and qualified to act, and that such a provision would introduce undue delay into proceedings which are intended to be summary and not of a strictly judicial character.

Clause 6.—Section 17 of the Land Acquisition Act, 1894, provides a means by which, in certain cases of urgency, possession can be taken of land otherwise than under section 16, that is to say, before the award under section 11 has been made. The amendments which the Bill makes by clauses 2 and 3 would, however, ordinarily have the effect of postponing by six weeks at least, and probably by a longer period, the date on which possession might otherwise be taken under section 17. Clause 6 of the Bill as drafted proposed to mitigate the consequent inconvenience in the cases referred to in sub-section (1) of section 17 by permitting possession to be taken immediately after the publication of the notice referred to in section 9 of the Act. It has been suggested to us, however, and we fully agree, that even in those cases the difficulty would not be adequately met, whilst in the even more urgent cases referred to in sub-section (2) of section 17 of the Act the Bill made no attempt to meet the difficulty at all. We have accordingly provided that, in a case in which the Local Government is satisfied that the provisions of section 17 can properly be used, it shall have power to direct that the provisions of section 5A, which allow time for objections to be filed and heard, shall not apply. In the case, however, where land is being acquired for a company, sections 39, 40 and 41 of the Act will continue to apply. These sections require the Local Government to be satisfied after an inquiry that the acquisition is needed for the construction of a work which is likely to prove useful to the public.

3. The Bill was published in the Gazette of India, dated the 14th July, 1923.

4. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

M. S. D. BUTLER.

A. C. CHATTERJEE.

T. V. SESHAGIRI AYER.

J. N. MUKHERJEE.*

P. S. SIVASWAMY AIYER.

K. C. NEOGY.*

H. S. GOUR.

W. M. HUSSANALLY.*

GULAB SINGH.*

P. B. HAIGH.

HENRY J. STANYON, COL.

NAND LAL.*

* Subject to note of dissent.

The 16th July, 1923.

Note of Dissent.

We have signed the report, because we think that the Bill, so far as it goes, is on the whole a decided improvement on the existing Act. But we do so, subject to our note of dissent, inasmuch as the Bill, such as it is, affords only a half-measure of relief. While the Bill recognises the importance of an inquiry as to the objection to the acquisition that may exist on the part of a person interested, it does not, to our mind, make adequate provision for anything beyond the representation of the official view of the situation to the Local Government. We believe that so far as the preliminary inquiry as to the suitability or otherwise of the land to the purposes of the acquisition, as to whether the purpose, put forward for the acquisition, is a public purpose or not, within the meaning of the Land Acquisition Act, and as to other incidental questions that may present themselves for consideration at the earlier stages of the proceedings before any declaration is made under section 6 of the Act, is concerned, the provision, made in the Bill, does not go far enough to meet the grievances of the public which, to our mind, are very real indeed. Apart from the question of errors of judgment on the part of the officers or the Department entrusted with the acquisition of land, various other incidental questions arise, at this stage, which, under existing conditions, cannot receive adequate consideration at the hands of the Collector or of the Local Government. The importance of a satisfactory decision of such questions at this early stage where objections of a substantial character to the proposed acquisition really exist, cannot, to our mind, be over-estimated, because if a declaration under section 6 of the Act is once made, the injustice, if any, that may come into existence before this stage is reached, is likely to be perpetuated; and it cannot be set right at any subsequent stage of the proceedings under any circumstance whatsoever. No doubt, the Government can withdraw from the proceedings under section 48 of the Act, but there is no machinery provided by the Act which a party aggrieved can set in motion after a declaration has been made under section 6 of the Act in order that he may bring his grievances to the notice of the Local Government for redress. The incidental questions which present themselves for solution at this early stage are heard and determined in England, if we are not mistaken, by two Justices of Peace, under certain circumstances. This means that such questions are decided there by persons who are acquainted with local conditions. It may be taken as probable that the report of the Collector, containing his conclusions, based upon his inquiries and the evidence taken by him as provided in the Bill, will not, generally speaking, fail to be tinged largely by the official view of the case; and bearing in mind, as we do, the fact that the grievances of a party interested, resulting from an insufficiency of inquiry at this stage, will remain beyond all remedy after a declaration under section 6 of the Act is once made, we have ventured to suggest that in contested cases, the Collector, when so required by an objector, should make the inquiry with the aid of two assessors—one of whom is to be appointed by the Local Government and the other by the objector, the cost of the latter being paid by the objector himself. This will tend to ensure the consideration of all sides of the question by the Local Government with whom the final decision of the questions at issue will rest, to a larger extent than under the scheme of the present Act. The procedure suggested by us will go to keep down unnecessary applications for the appointment of such assessors, and to reduce to a minimum the number of such inquiries, with the result that inquiries of an elaborate character will be confined to cases of real importance alone. It is expected that so far as lands proposed to be acquired in rural areas are concerned, the applications for inquiry by the Collector with the aid of assessors will be but few, if any at all; and that the demand for such inquiries will in practice be mainly confined to congested urban areas and commercial centres. We do not, therefore, apprehend that the adoption of the course suggested by us, will give rise to any appreciable practical difficulty in the administration of the Act. Even assuming that it may result in slight inconvenience to the District administration, the amount of justice, that may be expected to follow the procedure we have suggested herein, will more than counter balance the inconvenience, if any, that may be foreshadowed.

As to the determination of costs payable by an objector we think the matter may be left to rules to be framed under section 55 of the Act. We beg to annex hereto the amendments to the Bill which we propose to make, and which may be tabled for the day on which it may be taken into consideration by the Assembly.

JOGENDRANATH MUKHERJEE.

KSHITISH CHANDRA NEOGY.

W. M. HUSSANALLY.

GULAB SINGH.

NAND LAL.

SIMLA; }
The 18th July 1923. }

[As amended by the Select Committee.]

[Words printed in italics indicate the amendments suggested by the Committee.]

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BILL

Further to amend the Land Acquisition Act, 1894, for certain purposes.

WHEREAS it is expedient further to amend the Land Acquisition Act, 1894, for certain purposes ^{I of 1894} hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Land Acquisition (Amendment) Act, 1923.

(2) *It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.*

2. In sub-section (1) of section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act), after the word "locality", where it first occurs, the words "is needed or" shall be inserted.

3. After section 5 of the said Act the following heading and section shall be inserted, namely:—

" Objections.

5A. (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard 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 Local Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Local Government on the objections shall be final.

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

4. In sub-section (1) of section 6 of the said Act, for the words "when ever it appears to the Local Government" the following shall be substituted, namely:—

"when the Local Government is satisfied, after considering the report, if any, made under section 5A, sub-section (2)."

5. In section 11 of the said Act, after the words
 Amendment of section "the value of the land," the
 11, Act I of 1894. words "at the date of the
 publication of the notification under section 4, sub-section (1)" shall be inserted.

6. To section 17 of the said Act the following
 Amendment of section sub-section shall be added,
 17, Act I of 1891. namely:—

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

7. In clause first of sub-section (1) of section 23 of the said Act, for the words "declaration relating thereto under section 6;" the words "notification under section 4, sub-section (1)," shall be substituted.

8. In clause seventhly of section 24 of the said Act, for the words "declaration under section 6" the words "notification under section 4, sub-section (1)," shall be substituted.

9. In sub-section (1) of section 40 of the said Act, after the word "satisfied," the words "either on the report of the Collector under section 5A, sub-section (2), or" shall be inserted.

10. In section 41 of the said Act,—

Amendment of section
 41, Act I of 1894.

(a) the words "Such officer shall report to the Local Government the result of the inquiry, and," shall be omitted; and

(b) after the word "satisfied" the following words shall be inserted, namely:—

"after considering the report, if any, of the Collector under section 5A, sub-section (2), or on the report of the officer making an inquiry under section 40."