

The Ancient Monuments Preservation Act, 1904

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Act 7 of 1904

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Statement of Objects and Reasons.-The object of this measure is to preserve to India its ancient monuments in antiquities and to prevent the excavation by unauthorised persons of sites of historic interest and value.² In 1898 the question of antiquarian exploration and research attracted attention and the necessity of taking steps for the protection of monuments and relics of antiquity was impressed upon the Government of India. It was then apparent that legislation was required to enable the Government to discharge their responsibilities in the matter and a Bill was drafted on the lines of the existing Acts of Parliament modified so as to embody certain provisions which have found a place in recent legislation regarding the antiquities of Greece and Italy. This draft was circulated for the opinions of local Governments and their replies submitted showed that the proposals incorporated in it met with almost unanimous approval, the criticism received being directed, for the most part, against matters of detail. The draft has since been revised, the provisions of the Draft Bill prepared by the Government of Bengal have been embodied so far as they were found suitable and the present Bill is the result.³ The first portion of the Bill deals with protection of "Ancient monuments" an expression which has been fined in clause 2 (now section 2). The measure will apply only to such of these as are from time to time expressly brought within its contents though being declared to be "protected monuments". A greater number of more famous buildings in India are already in possession or under the control of the Government; but there are others worthy of preservation which are in the hands of private owners. Some of these have already been insured or are fast falling into decay. The preservation of these is the chief object of the clause of the Bill now referred to and the provisions of the Bill are in general accordance with the policy enunciated in section 23 of the Religious Endowments Act, 1863 (20 of 1863), which recognises and saves the right of the Government "to prevent injury to and preserve buildings remarkable in their antiquity and for their-historical or architectural value or required for the convenience of the public".The power to intervene is at present limited to cases to which section 3 of the Bengal

Regulation 19 of 1810 or section 3 of the Madras Regulation VII of 1817 applies. In framing the present Bill the Government has aimed at having the necessity of goodwill and securing the co-operation of the owners concerned and it hopes that the action which it is proposed to take may tend rather to the encouragement than to the suppression of private effort. The Bill provides that the owner or the manager of the building which merits greater care than it has been receiving may be invited to enter into an agreement for its protection and that in the event of his refusing to come to terms the collector may proceed to acquire it compulsorily or take proper course to secure its application. It has been made clear that there is to be no resort to compulsory acquisition in the case the monument is used in connection with religious observances or in other case until the owner has had an opportunity of entering into an agreement of the kind indicated above; and it is expressly provided that the monument maintained by the Government under the proposed Act, shall not be used for any purpose inconsistent with its character or with purpose of its foundation, and that, so far as is compatible with the object in view the public shall have access to it free of charge. By the 4th proviso of clause 11 (now section 10) it is laid down that in assessing the value of the monument for the purpose of compulsory acquisition under the Land Acquisition Act, 1894 (1 of 1894) its archaeological, artistic or historical merits shall not be taken into account. The object of the Government as purchaser being to preserve at the public expense and for the public benefit an ancient monument with all its associations, it is considered that the value of those associations should not be paid for. [Note.-As the 4th proviso of clause 11 was the subject of unfavourable comment, it was omitted by the Select Committee.]⁴ The second portion of the Bill deals with movable objects of historical or artistic interest and these may be divided into two classes: the first consists of ornaments, enamels, silver and copper vessels, Persian and Arabian Manuscripts, and curios general. These are for the most part portable and consequently difficult to trade; they are as a rule artistic; are of historic interest and it would be impracticable even were it desirable to prevent a dealer from selling and a traveller from buying them. The sculptural carvings, images, bas-reliefs, inscriptions and the like form a distinct class by themselves, in that their value depends upon their local connection. Such antiquities may as in the case of those of Swat, be found outside. India or in Native States and this the Legislature cannot reach directly; while as the regards the British territory and under the existing law, it is impossible to go beyond the provisions of the Indian Treasure Trove Act, 1878 (6 of 1878). (In these circumstances, it is proposed, by clause 18 of the Bill to take power to prevent the removal from British India of any antiquities which it may be deemed desirable to retain in the country, and at the same time to prevent importation. By thus putting a stop on draft in such articles it is believed that it will be possible to protect against spoliation a number of interesting places situated without and beyond British territory. Clause 19 aims at providing for antiquities such as sculptures and inscriptions which belong to another place and ought therefore to be kept in situ or deposited in local museums. The removal of these, it is proposed to enable the local Government to prohibit by notification and the clause also provides that, if the object is, movable, the owner may require the Government to purchase it outright and that, if it is immovable the Government shall compensate the owner for any loss caused to him by the prohibition. Clause 20 (now section 19) deals with the compulsory purchase of such antiquities if that is found to be necessary for their preservation and the owner is not willing on personal or religious grounds to part with them. In such cases it is proposed that the price to be paid should be assessed by the Collector, subject to a right of appeal to the local Government but it is for consideration whether the Land Acquisition Act of 1894 should be followed and reference to the Courts allowed.⁵ The third portion of the Bill deals

with excavations and gives power to make rules to prohibit or regulate such operations.⁶ The general power to make rules is given by clause 22 (now section 23) and clause 23 (now section 24) is intended to protect acts done or in good faith intended to be done, under the law which it is now proposed to enact.[18th March, 1904]An Act to provide for the preservation of Ancient Monuments and Objects of archaeological, historical or artistic interest. Whereas it is expedient to provide for the preservation of ancient monuments, for the exercise of control over traffic in antiquities and over excavation in certain places, and for the protection and acquisition in certain cases of ancient monuments and of objects of archaeological, historical or artistic interest; It is hereby enacted as follows:-

For Report of the Select Committee, see Gazette of India, 1904, Part V, p. 57; and for proceeding in Council, see Gazette of India, 1903, Part VI, pp. 166, 191; Gazette of India, 1904, Part V, 20(76). This Act has been declared to be in force in the Kondmals District by the Kondmals Laws Regulation, 1936 (IV of 1936), Section 3 and Schedule and in the Angul District by the Angul Laws Regulation, 1936 (V of 1936), Section 3 and Schedule. This has been extended to the new Provinces and merged State by the Merged State (Laws) Act, 1949 (59 of 1949), Section 3 (w.e.f. 1.1.1950) and to the Union Territories of Manipur and Tripura (now States) by the Union Territories (Laws) Act, 1950 (30 of 1950), Section 3 (w.e.f. 16.4.1950) and to the Union Territories of Pondicherry by Regn. 7 of 1963 (w.e.f. 1.10.1963) The Act has been extended to merged States in Bombay, see Bombay Act 4 of 1950, Section 3(i) (w.e.f. 30.4.1950). The Act has ceased to have effect in its application to the following States when those State have legislated their own Acts:- Andhra Pradesh-Andhra Pradesh Act 7 of 1960; Gujarat-Gujarat Act 25 of 1965; Himachal Pradesh-Himachal Pradesh Act 31 of 1976; Madras-Madras Act 25 of 1966; Madhya Pradesh-Madhya Pradesh Act 12 of 1964; Maharashtra-Maharashtra Act 12 of 1961; Manipur-Manipur Act 15 of 1977; Punjab-Punjab Act 20 of 1964; Rajasthan-Rajasthan Act 19 of 1961. The Act has also ceased to have effect in relation to ancient and historical monuments and archaeological sites and remains which are declared by or under the Central Act 24 of 24 of 1958 to be of national importance, see Act 24 of 1958, Section 39(2). See also the following State Acts on the same subject:- Assam Act 25 of 1959; J. & K. Act 5 of 1977 (1920 A.D.); Kerala Act 26 of 1969; Uttar Pradesh Act 7 of 1957; West Bengal Act 31 of 1957.

1. Short title and extent .-(1) This Act may be called The Ancient Monuments Preservation Act, 1904.

(2)[It extends to the whole of India [except the State of Jammu and Kashmir].]

2. Definitions .-In this Act, unless there is anything repugnant in the subject or context,-

(1)"ancient monument" means any structure, erection or monument or any tumulus or place of interment, or any cave, rock-sculpture, inscription or monolith, which is of historical, archaeological or artistic interest, or any remains thereof, and includes-(a)the site of an ancient monument;(b)such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument; and(c)the means of access to and convenient inspection of an ancient monument;(2)"antiquities" include any movable objects which the [Central

Government], by reason of their historical or archaeological associations, may think it necessary to protect against injury, removal or dispersion;(3)"Commissioner" includes any officer authorised by the [Central Government] [Substituted by A.O. 1937, for " Local Government".] to perform the duties of a Commissioner under this Act;(4)"maintain" and "maintenance" include the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or of securing convenient access thereto;(5)"land" includes a revenue-free estate, a revenue-paying estate, and a permanent transferable tenure, whether such an estate or tenure be subject to incumbrances or not; and(6)"owner" includes a joint owner invested with powers of management on behalf of himself and other joint owners, and any manager or trustee exercising powers of management over an ancient monument, and the successor in title of any such owner and the successor in office of any such manager or trustee:Provided that nothing in this Act shall be deemed to extend the powers which may lawfully be exercised by such manager or trustee.

3. Protected monuments .-(1) The [Central Government] may, by notification in the [Official Gazette] [Substituted by A.O. 1937.], declare an ancient monument to be a protected monument within the meaning of this Act.

(2)A copy of every notification published under sub-section (1) shall be fixed up in a conspicuous place on or near the monument, together with an intimation that any objections to the issue of the notification received by the [Central Government] [Substituted by A.O. 1937, for " Local Government".] within one month from the date when it is so fixed up will be taken into consideration.(3)On the expiry of the said period of one month, the [Central Government] [Substituted by A.O. 1937, for " Local Government".], after considering the objections, if any, shall confirm or withdraw the notification.(4)A notification published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument to which it relates is an ancient monument within the meaning of this Act.Ancient Monuments

4. Acquisition of rights in or guardianship of an ancient monument .-(1) The Collector, with the sanction of the [Central Government], may purchase or take a lease of any protected monument.

(2)The Collector, with the like sanction, may accept a gift or bequest of any protected monument.(3)The owner of any protected monument may, by written instrument, constitute the Commissioner the guardian of the monument, and the Commissioner may, with the sanction of the [Central Government] [Substituted by A.O. 1937, for " Local Government".], accept such guardianship.(4)When the Commissioner has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Commissioner had not been constituted guardian thereof.(5)When the Commissioner has accepted the guardianship of a monument under sub-section (3), the provisions of this Act relating to agreements executed under section 5 shall apply to the written instrument executed under the said sub-section.(6)When a protected monument is without an owner, the Commissioner may assume the guardianship of the monument.

5. Preservation of ancient monument by agreement .-(1) The Collector may, with the previous sanction of the [Central Government], propose to the owner to enter into an agreement with [the Central Government] [Substituted by A.O. 1937, for " the Secretary of State for India in Council" .] for the preservation of any protected monument in his district.

(2)An agreement under this section may provide for the following matters, or for such of them as it may be found expedient to include in the agreement:- (a)the maintenance of the monument; (b)the custody of the monument and the duties of any person who may be employed to watch it; (c)the restriction of the owner's right to destroy, remove, alter or deface the monument or to build on or near the site of the monument; (d)the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Collector to inspect or maintain the monument; (e)the notice to be given to the [Central Government] [Substituted by A.O. 1937, for " Government" .] in case the land on which the monument is situated is offered for sale by the owner, and the right to be reserved to the [Central Government] [Substituted by A.O. 1937, for " Government" .] to purchase such land, or any specified portion of such land, at its market-value; (f)the payment of any expenses incurred by the owner or by the [Central Government] [Substituted by A.O. 1937, for " Government" .] in connection with the preservation of the monument; (g)the proprietary or other rights which are to vest in [Government] [Substituted by A.O. 1937, for " His Majesty" .] in respect of the monument when any expenses are incurred by the [Central Government] [Substituted by A.O. 1937, for " Government" .] in connection with the preservation of the monument; (h)the appointment of an authority to decide any dispute arising out of the agreement; and (i)any matter connected with the preservation of the monument which is a proper subject of agreement between the owner and the [Central Government] [Substituted by A.O. 1937, for " Local Government" .].[* * *] [Sub-Section (3) was repealed by A.O. 1937.] (4)The terms of an agreement under this section may be altered from time to time with the sanction of the [Central Government] [Substituted by A.O. 1937, for " Government" .] and with the consent of the owner. (5)With the previous sanction of the [Central Government] [Substituted by A.O. 1937, for " Government" .], the Collector may terminate an agreement under this section on giving six months' notice in writing to the owner. (6)The owner may terminate an agreement under this section on giving six months' notice to the Collector. (7)An agreement under this section shall be binding on any person claiming to be owner of the monument to which it relates, through or under a party by whom or on whose behalf the agreement was executed. (8)Any rights acquired by the [Central Government] [Substituted by A.O. 1937, for " Government" .] in respect of expenses incurred in protecting or preserving a monument shall not be affected by the termination of an agreement under this section.

6. Owners under disability or not in possession .-(1) If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 5.

(2)In the case of village property, the headman or other village officer exercising powers of

management over such property may exercise the powers conferred upon an owner by section 5.(3)Nothing in this section shall be deemed to empower any person not being of the same religion as the persons on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

7. Enforcement of agreement .-(1) If the Collector apprehends that the owner or occupier of a monument intends to destroy, remove, alter, deface, or imperil the monument or to build on or near the site thereof in contravention of the terms of an agreement for its preservation under section 5, the Collector may make an order prohibiting any such contravention of the agreement.

(2)If an owner or other person who is bound by an agreement for the preservation or maintenance of a monument under section 5 refuses to do any act which is in the opinion of the Collector necessary to such preservation or maintenance, or neglects to do any such act within such reasonable time as may be fixed by the Collector, the Collector may authorise any person to do any such act, and the expenses of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner as if it were in arrears of land revenue.(3)A person aggrieved by an order made under this section may appeal to the Commissioner, who may cancel or modify it and whose decision shall be final.

8. Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner .-Every person who purchases, at a sale for arrears of land revenue or any other public demand, or at a sale made under the Bengal Patni Taluks Regulation, 1819 (Ben. Reg. VIII of 1819), an estate or tenure in which is situated a monument in respect of which any instrument has been executed by the owner for the time being, under section 4 or section 5, and every person claiming any title to a monument from, through or under an owner who executed any such instrument, shall be bound by such instrument.

9. Application of endowment to repair of an ancient monument .-(1) If any owner or other person competent to enter into an agreement under section 5 for the preservation of a protected monument, refuses or fails to enter into such an agreement when proposed to him by the Collector, and if any endowment has been created for the purpose of keeping such monument in repair, or for that purpose among others, the Collector may institute a suit in the Court of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application

to the District Judge for the proper application of such endowment or part thereof.

(2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary, and may pass an order for the proper application of the endowment or of any part thereof and any such order may be executed as if it were the decree of a Civil Court.

10. Compulsory purchase of ancient monument .-(1) If the [Central Government] apprehends that a protected monument is in danger of being destroyed, injured or allowed to fall into decay, [the Central Government may direct the State Government to acquire it] [Substituted by A.O. 1937, for " Local Government may proceed to acquire it" .] under the provisions of the Land Acquisition Act, 1894 (1 of 1894), as if the preservation of a protected monument were a "public purpose" within the meaning of that Act.

(2) The powers of compulsory purchase conferred by sub-section (1) shall not be exercised in the case of-(a) any monument which or any part of which is periodically used for religious observance; or (b) any monument which is the subject of a subsisting agreement executed under section 5. (3) In any case other than the cases referred to in sub-section (2) the said powers of compulsory purchase shall not be exercised unless the owner or other person competent to enter into an agreement under section 5 has failed, within such reasonable period as the Collector may fix in this behalf, to enter into an agreement proposed to him under the said section or has terminated or given notice of his intention to terminate such an agreement. [10-A. Power of [Central Government] to control mining, etc., near ancient monument.-(1) If the [Central Government] [Substituted by A.O. 1937, for " Local Government" .] is of opinion that mining, quarrying, excavating, blasting and other operations of a like nature should be restricted or regulated for the purpose of protecting or preserving any ancient monument, the [Central Government] [Substituted by A.O. 1937, for " Local Government" .] may, by notification in the [Official Gazette] [Substituted by A.O. 1937, for " Local Official Gazette" .], make rules-(a) fixing the boundaries of the area to which the rules are to apply; (b) forbidding the carrying on of mining, quarrying, excavating, blasting or any operation of a like nature except in accordance with the rules and with the terms of a license; and (c) prescribing the authority by which, and the terms on which licenses may be granted to carry on any of the said operations. (2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication. (3) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine, which may extend to two hundred rupees. (4) If any owner or occupier of land included in a notification under sub-section (1) proves to the satisfaction of the [Central Government] [Substituted by A.O. 1937, for " Local Government" .] that he has sustained loss by reason of such land being so included, the [Central Government] [Substituted by A.O. 1937, for " Local Government" .] shall pay compensation in respect of such loss.]

11. Maintenance of certain protected monuments .-(1) The Commissioner shall maintain every monument in respect of which the Government has acquired any of the rights mentioned in section 4 or which the Government has acquired under section 10.

(2)When the Commissioner has accepted the guardianship of a monument under section 4, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting the monument, and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

12. Voluntary contributions .-The Commissioner may receive voluntary contributions towards the cost of maintaining a protected monument and may give orders as to the management and application of any funds so received by him:

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

13. Protection of place of worship from misuse, pollution or desecration .-(1) A place of worship or shrine maintained by the Government under this Act shall not be used for any purpose inconsistent with its character.

(2)Where the Collector has, under section 4, purchased or taken a lease of any protected monument or has accepted a gift or bequest, or the Commissioner has, under the same section, accepted the guardianship thereof and such monument, or any part thereof, is periodically used for religious worship or observances by any community, the Collector shall make due provision for the protection of such monument, or such part thereof, from pollution or desecration-(a)by prohibiting the entry therein, except in accordance with condition prescribed with the concurrence of the persons in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used; or(b)by taking such other action as he may think necessary in this behalf.

14. Relinquishment of Government rights in a monument .-With the sanction of the [Central Government], the Commissioner may-

(a)where rights have been acquired by the [Central Government] [Substituted by A.O. 1937, for "Government" .] in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish the rights so acquired to the person who would for the time being be the owner of the monument if such rights had not been acquired; or(b)relinquishes any guardianship of a monument which he has accepted under this Act.

15. Right of access to certain protected monuments .-(1) Subject to such rules as may after previous publication be made by the [Central Government], the public shall have a right of access to any monument maintained by the [Central Government] [Substituted by A.O. 1937, for "Government" .] under this Act.

(2)In making any rule under sub-section (1) the [Central Government] [Substituted by A.O. 1937, for " Local Government" .], may provide that a breach of it shall be punishable with fine which may extend to twenty rupees.

16. Penalties .-Any person other than the owner who destroys, removes, injures, alters, defaces or imperils a protected monument, and any owner who destroys, removes, injures, alters, defaces or imperils a monument maintained by the [Central Government] under this Act or in respect of which an agreement has been executed under section 5, and any owner or occupier who contravenes an order made under section 7, sub-section (1), shall be punishable with fine which may extend to five thousand rupees, or with imprisonment which may extend to three months, or with both.

Traffic In Antiquities

17. Power to [Central Government] to control traffic in antiquities

.- (1) If the [Central Government] [Substituted by A.O. 1937, for " Local Government" .] apprehends that antiquities are being sold or removed to the detriment of India or of any neighbouring country, [it] [Substituted by A.O. 1950, for certain words.] may, by notification in the [Official Gazette] [Substituted by A.O. 1937.], prohibit or restrict the bringing or taking by sea or by land of any antiquities or class of antiquities described in the notification into or out of [the territories to which this Act extends] [[Substituted by Act 3 of 1951, Section 3 and Schedule, for " the territories for the time being comprised within Part B States and Part C States" (w.e.f. 1.4.1951).]] or any specified part of [the said territories.] [Substituted by A.O. 1950.] (2) Any person who brings or takes or attempts to bring or take any such antiquities into or out of [the said territories] [Substituted by A.O. 1950.] or any part of [the said territories] [Substituted by A.O. 1950.] in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees. (3) Antiquities in respect of which an offence referred to in sub-section (2) has been committed shall be liable to confiscation. (4) An officer of Customs, or an officer of Police of a grade not lower than Sub-Inspector, duly empowered by the [Central Government] [Substituted by A.O. 1937, for " Local Government" .] in this behalf, may search any vessel, cart or other means of conveyance, and may open any baggage or package of goods, if he has reason to believe that goods in respect of which an offence has been committed under sub-section (2) are contained therein. (5) A person who complains that the power of search mentioned in sub-section (4) has been vexatiously

or improperly exercised may address his complaint to the [Central Government] [Substituted by A.O. 1937, for " Local Government" .], and the [Central Government] [Substituted by A.O. 1937, for " Local Government" .] shall pass such order and may award such compensation, if any as appears to it to be just. Protection Of Sculptures, Carvings, Images, Bas-Reliefs, Inscriptions Or Like Objects

18. Power to [Central Government] to control moving of sculptures, carvings or like objects

. -(1) If the [Central Government] [Substituted by A.O. 1937, for " Local Government" .] considers that any sculptures, carvings, images, bas-reliefs, inscriptions or other like objects ought not to be moved from the place where they are without the sanction of the [Central Government] [Substituted by A.O. 1937, for " Government" .], the [Central Government] [Substituted by A.O. 1937, for " Local Government" .] may by notification in the [Official Gazette,] [Substituted by A.O. 1937.] direct that any such object or any class of such objects shall not be moved unless with the written permission of the Collector. (2) A person applying for the permission mentioned in sub-section (1) shall specify the object or objects, which he proposes to move, and shall furnish in regard to such object or objects, any information, which the collector may require. (3) If the Collector refuses to grant such permission, the applicant may appeal to the Commissioner, whose decision shall be final. (4) Any person who moves an object in contravention of a notification issued under sub-section (1), shall be punishable with fine, which may extend to five hundred rupees. (5) If the owner of any property proves to the satisfaction of the [Central Government] [Substituted by A.O. 1937.] that he has suffered any loss or damage by reason of the inclusion of such property in a notification published under sub-section (1), the [Central Government] [Substituted by A.O. 1937.] shall either-(a) exempt such property from the said notification; (b) purchase such property, if it be movable, at its market value; or (c) pay compensation for any loss or damage sustained by the owner of such property, if it to be immovable.

19. Purchase of sculptures, carvings or like objects by the Government .-(1) If the [Central Government] apprehends that any object mentioned in a notification issued under section 18, sub-section (1), is in danger of being destroyed, removed, injured or allowed to fall into decay, the [Central Government] [Substituted by A.O. 1937.] may pass orders for the compulsory purchase of such object at its market-value and the Collector shall thereupon give notice to the owner of the object to be purchased.

(2) The power of compulsory purchase given by this section shall not extend to-(a) any image or symbol actually used for the purpose of any religious observance; or (b) anything which the owner desires to retain on any reasonable ground personal to himself or to any of his ancestors or to any member of his family. [ARCHAEOLOGICAL EXCAVATION] [Substituted by Act 18 of 1932, Section 3.]

20. Power of [Central Government] to notify areas as protected

-(1) If the [Central Government] [Substituted by A.O. 1937.] [* * *] [The words " after consulting the Local Government" repealed by A.O. 1937.] is of opinion that excavation for archaeological purposes in any area should be restricted and regulated in the interest of archaeological research, the Central Government may, by notification in the Official Gazette specifying the boundaries of the area, declare it to be a protected area.(2)From the date of such notification all antiquities buried in the protected area shall be the property of [the Government] [Substituted by A.O. 1950, for " Crown" .] and shall be deemed to be in the possession of [the Government] [Substituted by A.O. 1950, for " Crown" .], and shall remain the property and in the possession of [the Government] [Substituted by A.O. 1950, for " Crown" .] until ownership thereof is transferred; but in all other respects the rights of any owner or occupier of land in such area shall not be affected.

20.

-A. Power to enter upon and make excavations in a protected area .-(1) Any officer of the Archaeological Department or any person holding a license under section 20-B may, with the written permission of the Collector, enter upon and make excavations in any protected area.(2)Where, in the exercise of the power conferred by sub-section (1), the rights of any person are infringed by the occupation or disturbance of the surface of any land, the [Central Government]shall pay to that person compensation for the infringement.

20.

-B. Power of [Central Government] to make rules regulating archaeological excavation in protected areas.-(1) The [Central Government] [Substituted by A.O. 1937.] may make rules-(a)prescribing the authorities by whom licenses to excavate for archaeological purposes in a protected area may be granted;(b)regulating the conditions on which such licenses may be granted, the form of such licenses, and the taking of security from licensees;(c)prescribing the manner in which antiquities found by a licensee shall be divided between the [Central Government] [Substituted by A.O. 1937.] and the licensee; and(d)generally to carry out the purposes of section 20.(2)The power to make rules given by this section is subject to the condition of the rules being made after previous publication.(3)Such rules may be general for all protected areas for the time being, or may be special for any particular protected area or areas.(4)Such rules may provide that any person committing a breach of any rule or of any condition of a license shall be punishable with fine which may extend to five thousand rupees, and may further provide that where the breach has been by the agent or servant of a licensee the licensee himself shall be punishable.

20.

-C. Power to acquire a protected area .-If the [Central Government] is of opinion that a protected area contains an ancient monument or antiquities of national interest and value, it may direct the [State Government] [Substituted by A.O. 1937, for " Provincial Government" .] to acquire such area,

or any part thereof, and the [State Government] [Substituted by A.O. 1937, for " Provincial Government" .] may thereupon acquire such area or part under the Land Acquisition Act, 1894 (1 of 1894), as for a public purpose.General

21. Assessment of market-value or compensation .-(1) The market-value of any property which Government is empowered to purchase at such value under this Act, or the [* * *] compensation to be paid by Government in respect of anything done under this Act, shall, where any dispute arises [in respect] [Substituted by Act 18 of 1932, Section 4, for " touching the amount" .] of such market-value or compensation, be ascertained in the manner provided by the Land Acquisition Act, 1894 (1 of 1894), sections 3, 8 to 34, 45 to 47, 51 and 52 so far as they can be made applicable:

Provided that when making any inquiry under the said Land Acquisition Act, 1894 (1 of 1894), the Collector shall be assisted by two assessors, one of who, shall be a competent person nominated by the Collector, and one person nominated by the owner or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.

22. Jurisdiction .-A Magistrate of the third class shall not have jurisdiction to try any person charged with an offence against this Act.

23. Power to make rules .-(1) The [Central Government] [* * *] [The words " or the Local Government" repealed by A.O. 1937.] [may, by notification in the Official Gazette, make rules] [Substituted by Act 4 of 2005, Section 2 and Schedule, for " may make rules" (w.e.f. 11.1.2005).] for carrying out any of the purposes of this Act.

(2)The power to make rules given by this section is subject to the condition of the rules being made after previous publication.(3)[Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is a session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.] [Inserted by Act 4 of 2005, Section 2 and Schedule (w.e.f. 11.1.2005).]

24. Protection to public servants acting under Act .-No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Act.