



The Calcutta Port Act, 1890

Act 3 of 1890

Keyword(s):

The Commissioners, Commissioners, Dock, Goods, Land, Master, Pier, Port, Port Approaches, Public Securities, Vessel, Wharf

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Bengal Act III of 1890
(The Calcutta Port Act, 1890.)¹

<p>AMENDED</p>	<p>Ben. Act II of 1894. Ben. Act VI of 1895. Ben. Act II of 1898. Ben. Act IV of 1905. Ben Act I of 1908. Ben Act I of 1910. Ben. Act I of 1912. Ben. Act I of 1915. Ben Act VII of 1920. Ben. Act VI of 1923. Ben. Act I of 1926. Ben. Act VI of 1926. Ben. Act III of 1933. Ben. Act IV of 1934. West Ben. Act XXV of 1954. Act I of 1903. Act XXV of 1942. Act XXXVI of 1948. Act XXXV of 1951. Act XLI of 1952. Act XIII of 1958. Act LVIII of 1960. Act XV of 1970.</p>
<p>REPEALED IN PART AND AMENDED ...</p>	<p>Ben. Act IV of 1895. Ben. Act II of 1907. Ben Act V of 1915. Act LVI of 1974.</p>
<p>ADAPTED</p>	<p>(a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Inde- pendence (Adaptation of Bengal and Punjab Acts) Order, 1948. (c) The Adaptation of Laws Order, 1950.</p>

(28th May, 1890.)

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Calcutta Gazette* of 1889, Part IV, page 26, and for Proceedings in Council, see *ibid.*, 1889, Supplement, pages 661, 714, 960; *ibid.*, 1890, Supplement, pages 3, 45, 172, 200, 452, 504 and 668.

LOCAL EXTENT.—This Act extends only to the Port of Calcutta—see the title and preamble.

(Chapter I.—Preliminary.—Sections 1, 2.)

An Act to consolidate and amend the law relating to the Port of Calcutta and to the appointment of the Commissioners for the said Port.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the Port of Calcutta and to the appointment of Commissioners for the said Port : It is hereby enacted as follows :—

CHAPTER I
Preliminary.

Title and commencement.

1. (1) This Act may be called the Calcutta Port Act, 1890.

(2) It shall come into force on such date¹ as the ²[Central Government] may direct, not being more than three months after the date on which it may be published in the ³[Official Gazette] with the assent of the ⁴[President].

Enactments repealed.

2. (1) On the commencement of this Act, the enactments specified in the First Schedule shall be repealed to the extent mentioned in the third column thereof.

(2) But this repeal shall not revive any office, authority or thing abolished by any such enactments, or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued, before the commencement of this Act.

(3) All rules and bye-laws prescribed, appointments made, powers conferred and notifications published under any such enactments shall, so far as may be, be deemed to be respectively prescribed, made, conferred and published under this Act.

(4) Any enactment or document referring to any enactments hereby repealed shall be construed to refer to this Act, or the corresponding portion thereof.

(5) Nothing herein contained shall deprive any person of any right of property, or other private right, except as hereinafter expressly provided.

¹The 1st June, 1890.—See Notification No. 143, dated the 28th May, 1890 in the *Calcutta Gazette* of 1890, Part I, Page 509.

²These words were substituted for the words "Local Government" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

³These words were substituted for the words "*Calcutta Gazette*" by paragraph 4 (1), *ibid.*

⁴This word was substituted for the word "Governor-General" by paragraph 4 (1) of the Adaption of Laws Order, 1950.

of 1890.]

(Chapter I.—Preliminary.—Section 3.)

3. In this Act, unless there be something repugnant in the subject or context—

Definitions.

(1) "the Commissioners" shall mean "the Commissioners [for the Port] of Calcutta" hereinafter incorporated ;

"the Commissioners."

(2) "Commissioner" shall mean a member of the said Corporation ;

"Commissioner."

(3) "dock" shall include all basins, cuts, quays, wharves, warehouses, tramways, and other works and things appertaining to any dock ;

"dock."

(4) "goods" shall include wares and merchandise of every description ;

"goods."

(5) "land" shall include the bed of the river below high water-marks ;

"land."

²[(6) "master" when used in relation to any vessel or to any aircraft making use of the port, means any person having for the time being the charge or control of such vessel or such aircraft, as the case may be, except a pilot, harbour master, berthing master, dock master or assistant harbour master of the port ;]

"master."

(7) "pier" shall include any stage, stairs, landing-place, jetty, floating-barge or pontoon, and any bridges or other works connected therewith ;

"pier."

(8) "port" shall mean the Port of Calcutta ;

"port."

³[(8a) "Port approaches" shall mean those parts of the navigable rivers and channels leading to the port in which the Indian Ports Act, 1908 is in force ;

"Port approaches."

(8b) "public securities" shall mean—

"Public securities."

(a) promissory notes, debentures, stock or other securities of the Central Government or of any State Government ;

(b) debentures or other securities for money issued by, or on behalf of, any municipal body, Improvement Trust or Port Trust under the authority of any law for the time being in force in India, and includes the debentures or other securities issued by the Commissioners under this Act ;]

XV of 1908.

¹These words were substituted for the words "of the Port" by s. 60 (a) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²Clause (6) was substituted for the original clause (6) by s. 60 (b), *ibid.*

³Clauses (8a) and (8b) were inserted by s. 60 (c), *ibid.*

(Chapter I.—Preliminary.—Section 3A.—Chapter II.—Of the Constitution of the Port Commission.—Sections 4, 5.)

“vessel.”

¹[(9) “vessel” includes anything made for the conveyance mainly by water of human beings or of property ;]

“wharf.”

(10) “wharf” shall include any bank of the river which may be improved to facilitate the loading or unloading of goods, and any foreshore used for the same, and any wall enclosing or adjoining such bank or foreshore.

Requirements as to publication of notifications, orders, etc., in the *Official Gazette*.

²3A. (1) Any requirement in this Act that a notification, order, rule or bye-law issued or made by the Commissioners or by the Central Government shall be published in the *Official Gazette*, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule or bye-law shall—

(a) where it is issued or made by the Commissioners, be published in the *Official Gazette* of the State, and

(b) where it is issued or made by the Central Government, be published in the *Gazette of India*.

(2) Any notification, order, rule or bye-law issued or made by the Central Government shall, for general information, be also republished in the *Official Gazette* of the State.

CHAPTER II

Of the Constitution of the Port Commission.

Provisions of Act to be carried out by body of Commissioners.

4. The duties of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a body of Commissioners to be called “the Commissioners for the Port of Calcutta”³; and such body of Commissioners shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Constitution of Commissioners.

³5. There shall be twenty-four Commissioners, that is to say :—

(i) the Chairman, *ex-officio* ;

(ii) the Deputy Chairman, *ex-officio* ;

(iii) the Collector of Customs, Calcutta, *ex-officio* ;

¹Clause (9) was substituted for the original clause by s. 60 (d) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²Section 3A was inserted by s. 61, *ibid*.

³Section 5 was substituted for the previous section by s. 2 and the Schedule of the Bombay, Calcutta and Madras Port Trusts (Constitution) (Amendment) Act, 1948 (XXXVI of 1948).

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Section 6.)

(iv) the Chief Executive Officer of the Municipal Corporation for the City of Calcutta, *ex-officio* ;

¹(v) the General Manager, Eastern Railway, *ex-officio* ;

¹(vi) the Director of the Railway Board at Calcutta, *ex-officio* ;

(vii) one representative of the Mercantile Marine Department chosen by the Central Government ;

(viii) one representative of the Defence Services chosen by the Central Government ;

(ix) one representative of the ²[State] Government chosen by the ²[State] Government ;

(x) two representatives of labour chosen by the Central Government after consultation with the registered trade unions, if any, composed of persons employed in the Port ; and

(xi) thirteen elected Commissioners.

6. ³(1) Of the thirteen elected Commissioners one shall be elected by the Municipal Corporation of the City of Calcutta, one shall be elected by the Howrah Municipality and the remaining by such State² or local bodies representing commercial interests as the Central Government may, from time to time, by notification in the *Official Gazette*, specify, and such notification may also specify the number of Commissioners that each of such bodies may elect.

Election of
Commis-
sioners.

(2) The election shall be made in such manner as may be determined by the electing bodies, subject to the approval of the ⁴[Central Government] ; and the name of every person so elected shall be published in the ⁵[*Official Gazette*].

⁶(3) All the Commissioners other than those who are *ex-officio* Commissioners or elected Commissioners shall be appointed either by name or by virtue of office by the Central Government by notification in the *Official Gazette*.

¹These clauses (v) and (vi) were substituted for the original clauses by s. 2 of the Calcutta Port (Amendment) Act, 1952 (XLI of 1952).

²The word "State" was substituted for the word "Provincial" by paragraph 4 (1) of the Adaptation of Laws Order, 1950.

³Sub-section (1) was substituted for the original sub-section by s. 2 and the Schedule of the Bombay, Calcutta and Madras Port Trusts (Constitution) (Amendment) Act, 1948 (XXXVI of 1948).

⁴See foot-note 2 on page 12, *ante*.

⁵See foot-note 3 on page 12, *ante*.

⁶Sub-section (3) was inserted by s. 62 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

(Chapter II.—Of the Constitution of the Port
Commission.—Sections 7—10 & 10A.)

In default
of election,
Central
Government
to appoint.

7. In the event of default being made by the electing bodies aforesaid in electing any Commissioner under the last preceding section within the period hereinafter prescribed in this behalf, it shall be lawful for the ¹[Central Government] to appoint a person ²[by notification in the ³*Official Gazette*]; and the person so appointed shall ³[for all the purposes of this Act] be deemed to be a Commissioner as if he had been elected.

Appoint-
ment of
Chairman
and Deputy
Chairman.

⁴8. The Chairman and Deputy Chairman shall be appointed by the Central Government by notification in the *Official Gazette* and shall hold office during the pleasure of the Central Government.

9. [Term of office of Chairman and Deputy Chairman.—Rep. by s. 64 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).]

Term of
Office of
Commis-
sioners.

⁵10. (1) Subject to the provisions hereinafter contained, every person appointed by name or elected to be a Commissioner shall hold the office to which he shall be appointed or elected for a term of two years commencing on the first day of April next following his appointment or election, as the case may be, but may at the expiration of such term, be re-appointed or re-elected.

(2) Subject to the provisions of section 10A, every person appointed by the Central Government to be a Commissioner by virtue of an office shall, until the Central Government by notification in the *Official Gazette* otherwise directs, continue to be a Commissioner so long as he continues to hold that office.

(3) The term of office of every Commissioner appointed by name or elected as such and holding office on the 1st day of April next following the commencement of the Port Trusts and Ports (Amendment) Act, 1951, shall be deemed to have expired on that day.

XXXV of
1951.

Resignation
of Commis-
sioners.

⁶10A. A Commissioner appointed by the Central Government whether by name or by virtue of an office or an elected Commissioner

¹See foot-note 2 on page 12, ante.

²See foot-note 3 on page 12, ante.

³These words within square brackets were inserted by s. 4 of the Calcutta Port (Amendment No. II) Act, 1926 (Ben. Act VI of 1926).

⁴Section 8 was substituted for the former section 8 by s. 63 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁵Section 10 was substituted for the former section by s. 65, *ibid.*

⁶Section 10A was inserted by s. 66, *ibid.*

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(Chapter II.—Of the Constitution of the Port Commission.—
Sections 11—13.)

may at any time resign his office by giving notice in writing to the Chairman who shall forward the same to the Central Government, and on such resignation being accepted by that Government, he shall cease to be a Commissioner, and his office shall thereupon become vacant.

¹11. ²[(1) the Chairman and Deputy Chairman shall receive such salary and allowances, if any, as may from time to time be fixed by the Central Government.]

(2) [Omitted by s. 67 (2) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).]

(3) The ³[Central Government] may determine whether any and what fees shall be paid to the Commissioners ⁴[or any class of them] other than the Chairman and the Deputy Chairman for attendance at meetings for the transaction of the business of the Trust.

(4) The payment of any salary, allowances, or fees referred to in sub-section (1), (2) or (3) shall be subject to such conditions and restrictions as may be fixed by the ³[Central Government].

12. It shall be lawful for the ³[Central Government] to grant leave of absence to the ⁵[Chairman] and to appoint a person to officiate for such ⁵[Chairman] during his absence on leave.

13. (1) The ³[Central Government] shall also fix the amount of ⁶[leave salary and allowances, if any] to be granted to the ⁵[Chairman], and the salary ⁷[and allowances, if any,] to be paid to the person who shall be appointed to his office.

(2) Any person appointed under ⁸[the last preceding] section to act for the ⁵[Chairman] shall, while so acting, have all the powers, and be

Salary and allowances of Chairman and Deputy Chairman, and fees payable to Commissioners for attendance at meetings.

Power to grant leave of absence to Chairman.

Central Government to fix leave allowance of Chairman.

¹Section 11 was substituted for the original section by s. 5 of Calcutta Port (Amendment) Act, 1920 (Ben. Act. VII of 1920).

²Sub-section (1) of section 11 was substituted by s. 67 (1) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

³See foot-note 2 on page 12, ante.

⁴These words were inserted by s. 67 (3) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁵This word was substituted for the word "Vice-Chairman" by s. 6 of the Calcutta Port (Amendment) Act, 1920 (Ben. Act. VII of 1920).

⁶These words were substituted for the words "leave allowance" by s. 68 (1) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁷These words were inserted by s. 68 (2), *ibid.*

⁸These words within square brackets were substituted for the word "this" by s. 2 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act. IV of 1895).

(Chapter II.—Of the Constitution of the Port Commission.—
Sections 13A, 13B, 14, 15.)

liable to all the restrictions, and limitations, which the ¹[Chairman] under this Act has and is liable to.

Gratuity,
etc., for
Chairman
or Deputy
Chairman.

²13A. The Central Government may fix the amount of gratuity or compassionate allowance, if any, which shall be paid to the Chairman or Deputy Chairman on his retirement from office and may determine the conditions under which the said gratuity or compassionate allowance shall be so payable.

Permission
to Chairman
and Deputy
Chairman to
join
provident
fund.

³13B. Notwithstanding anything contained in this Act, the Central Government may permit the Chairman and the Deputy Chairman or either of them who, before such appointment, had been an employee of the Commissioners, to join the provident fund established by the Commissioners under section 30A for the benefit of their employees and may determine the conditions and restrictions subject to which such permission may be given.

Filling of
vacancies in
the office of
Commissioners.

⁴14. (1) Every vacancy in the office of an elected Commissioner or of a Commissioner appointed by name caused by the expiration of the term of office of such Commissioner shall be filled by election or appointment, as the case may be, within one month immediately preceding the date of expiration of such term.

(2) Every vacancy in the office of a Commissioner appointed by the Central Government by virtue of an office caused by the expiration of the term of office of such Commissioner or otherwise shall be filled by appointment within one month of the occurrence of such vacancy.

Mode of
filling
temporary
vacancies.

15. (1) A temporary vacancy caused by the absence on leave of any ⁵[elected or appointed Commissioner], for a period not less than three months nor more than one year shall be filled up by election ⁶[or appointment, as the case may be,] ⁷ in the manner hereinbefore provided.

¹See foot-note 5 on page 17, ante.

²Section 13A was substituted for the original section by s. 69 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

³Section 13B was inserted by s. 70, *ibid.*

⁴Section 14 was substituted for the original section by s. 71, *ibid.*

⁵These words were substituted for the words "elected commissioners" by s. 72 (1) (a), *ibid.*

⁶These words were inserted by s. 72 (1) (b), *ibid.*

⁷The words "or appointment" in sub-section (1) and the words "or appointed" in sub-section (2) were omitted by s. 8 of the Calcutta Port (Amendment No. II) Act, 1926 (Ben. Act VI of 1926).

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(Chapter II.—Of the Constitution of the Port Commission.—
Sections 16, 16A.)

(2) A person elected ¹[or appointed] ² * * * under this section to fill a temporary vacancy shall hold office until the expiry of the term of leave granted to the Commissioner whose place he fills.

Term of temporary appointments.

³(3) Nothing in this section shall prevent a person being elected or appointed as a Commissioner for a period shorter than three months in the place of an absent Commissioner, on the application of the Commissioners in meeting if the absentee is an elected Commissioner, or at the discretion of the Central Government if he is a Commissioner appointed by the Central Government.

⁴16. Any casual vacancy in the office of an elected Commissioner or of a Commissioner appointed by name caused by the death or resignation of such Commissioner or by virtue of the provisions of sub-section (2) of section 17, shall be filled within one month by election or appointment, as the case may be, in the manner hereinbefore provided :

Filling of casual vacancies.

Provided that the Commissioner so elected or appointed shall retain his office so long only as the vacating Commissioner would have retained the same if such vacancy had not occurred.

⁵16A. (1) Nothing in the foregoing provisions shall prevent a person being appointed by the Central Government to fill any vacancy in the office of a Commissioner appointed by the Central Government either by name or by virtue of an office after the expiration of the period specified therefor in section 14 or section 16, as the case may be, if for any reason it has not been possible for the Central Government to make the appointment within the said period.

Saving provision for appointment or election of Commissioners after the prescribed period.

(2) If the Central Government is satisfied that an electing body has failed to elect a Commissioner within the period specified therefor in section 14 or section 16, as the case may be, for reasons beyond its control, the Central Government may, by notification in the *Official Gazette*, direct that the election shall be held on or before such date (after the expiration of the said period) as may be specified in the notification.

¹These words were inserted by s. 72(2) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²See foot-note 7 on page 18, *ante*.

³This sub-section (3) was inserted by s. 72 (3) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁴Section 16 was substituted for the original section 16 by s. 73, *ibid*.

⁵Section 16A was inserted by s. 74, *ibid*.

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Section 17.)

(3) Where a Commissioner is appointed by name or elected under sub-section (2) of this section or appointed under section 7, to fill any such vacancy as is referred to in section 14 after the expiration of the period specified therefor in that section, the term of office of such Commissioner shall commence on the date on which his appointment or election, as the case may be, is notified in the *Official Gazette* and shall expire on the date on which his term of office would have expired if his appointment or election, as the case may be, had been made within the period so specified in section 14.

Disqualifi-
cation of
Commis-
sioners.

¹17. (1) A person shall be disqualified to be a Commissioner if he—

- (a) is an undischarged insolvent, or
- (b) has been convicted and sentenced to imprisonment for an offence involving moral turpitude punishable with imprisonment for a term exceeding six months, or to transportation, such conviction not having been subsequently reversed or quashed, unless the Central Government has by order removed the disqualification.

(2) Every person other than an *ex-officio* Commissioner or a Commissioner appointed by the Central Government by virtue of an office,—

- (a) who, at any time after he becomes a Commissioner, shall be absent from six consecutive meetings without having the permission in that behalf of the Commissioners or who having such permission shall be absent from the meetings for period exceeding one year ; or
- (b) who shall, at any time after he becomes a Commissioner, accept or agree to accept any office or place of profit under this Act ; or
- (c) who shall, save with the sanction of the Central Government participate or agree to participate in the profits of any work done by order of the Commissioners or be concerned or participate in the profits of any contract entered into with the Commissioners ; or
- (d) who becomes disqualified for any of the reasons mentioned in sub-section (1) ; or
- (e) who acts in contravention of the provisions of section 17A, shall thenceforth cease to be a Commissioner and his office shall thereupon become vacant :

¹Sections 17 and 17A were substituted for the original section 17 by s. 75 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

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Provided that no such Commissioner shall vacate his office by reason only of his being a share-holder in any registered joint stock company with which the Commissioners may enter into any contract or by reason of his being interested in any loan of money to the Commissioner :

Provided further that no such Commissioner shall vacate his office by reason of his being interested in any purchase or lease of land or premises the sale or lease of which the Commissioners may determine on at a meeting under the provisions of this Act, or of his being interested in any agreement under which facilities may be granted for the landing or shipment of goods in return for stipulated income guaranteed to the Commissioners in consideration of their undertaking to construct or provide such facilities.

¹17A. A Commissioner shall not vote on, or take part in, the discussion of any question coming up for consideration at a meeting of the Commissioners or of any committee of their number, if the question is one in which he has any direct or indirect pecuniary interest by himself or his partner or in which he is interested either professionally on behalf of a client or as agent for any person other than the Central Government, a local authority or a railway company.

Restriction on power of Commissioners to vote or discuss matters in which they are interested.

CHAPTER III

Of the Borrowing Powers of the Commission.

18. If the ²[Central Government] shall, ³ by an order published in the ⁴[Official Gazette], so direct, it shall be lawful for the Commissioners in meeting, from time to time, to raise money for the estimated cost of any of the following purposes sanctioned by the ²[Central Government], to such extent as it may, from time to time, direct :—

Power to raise money for works.

- (a) the construction and repair of works and erections necessary or expedient for carrying out the purposes of this Act ;

¹See foot-note 1 on page 20, ante.

²See foot-note 2 on page 12, ante.

³The words "with the previous sanction of the Governor-General in Council" were omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴See foot-note 3 on page 12, ante.

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Sections 19, 20.)

- v. (b) the acquisition of immovable and movable property requisite for such construction or repair as aforesaid ; and
(c) the payment of such salaries, fees and expenses, and such principal and interest, as may be due by the Commissioners.

Power to borrow moneys by way of debenture.

19. When an order has been published under the last preceding section, it shall be lawful for the Commissioners in meeting to borrow ¹[within such dates as may be approved by the ²Central Government] any sums of money the Commissioners may require for the objects mentioned in the last preceding section, by way of debenture on—

- (a) the security of the property now vested, or which may hereafter become vested in the Commissioners, and
(b) the tolls, dues, rates, rents and charges leviable under this Act,
less the ³ sums set apart by the Commissioners as a sinking fund for the purpose of paying off the loans contracted under the authority of this Act or any enactment hereby repealed.

Form and transferability of debentures.

20. ⁴[(1) All debentures which are issued under the authority of this Act shall be in such form as the Commissioners, with the previous consent of the ⁵[Central Government], shall from time to time determine :

⁶]
⁷(2) The holder of any debenture in any form duly authorised under this section may obtain in exchange therefor, upon such terms as the Commissioners shall from time to time determine, a debenture in any other form so authorized.

¹These words were inserted by s. 2 of the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

²The words "Central Government" were substituted for the words "Governor-General in Council" by paragraph 4 (1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

³The words "sum of five and a half lakhs set apart by the Commissioners as a reserve fund prior to the passing of this Act, and the further" were omitted by s. 76 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁴Sub-section (1) was substituted, for sub-section (1) as amended by the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907), by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁵See foot-note 2 on page 12, ante.

⁶The proviso was omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

⁷Sub-sections (2) and (3) were substituted for the original sub-section (1) by s. 3 of the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

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(Chapter III.—Of the Borrowing Powers of the Commission.—
Sections 20A, 21—23.)

¹(3) Every debenture issued by the Commissioners shall be transferable in such manner as shall be therein expressed.

²(4) The right to sue in respect of the moneys secured by any of such debentures, or the debenture issued under the authority of any enactment hereby repealed, shall be vested in the holders thereof for the time being, without any preference by reasons of some of such debentures being prior in date to others.

Right to sue on debentures vested in holders.

³20A. All coupons attached to debentures issued under the authority of this Act shall bear the signature of the ⁴[Chairman] and such signature may be engraved, lithographed or impressed by any mechanical process.

Signature of coupons attached to debentures.

21. All loans contracted by the Commissioners, whether by way of debentures or otherwise under this Act, shall be a first charge of the property now vested, or which hereafter may become vested, in the Commissioners and on the tolls, dues, rates, rents and charges leviable under this Act, as provided by section 19.

Loans contracted by Commissioners to be first charge on property.

22. The Commissioners in meeting may at any time with the previous sanction of ⁵[and within such dates as may be approved by] the ⁶[Central Government], raise, either by borrowing from the ⁷[Central Government], or by way of debenture, any money that may be required to pay any amount for the time being due under the authority of this Act or any enactment hereby repealed.

Power to raise money for payment of loans.

23. Unless the ⁸[Central Government] ⁹* * * * shall, by an order published in the ¹⁰[Official Gazette], otherwise direct all loans

Loans to be contracted in India and in Indian currency.

¹See foot-note 7 on page 22. *ante*.

²This sub-section was renumbered as sub-section "(4)" by s. 3 of the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

³Section 20A was inserted by s. 2 of the Calcutta Port (Amendment) Act, 1908 (Ben. Act I of 1908).

⁴This word within square brackets was substituted for the word "Vice-Chairman" by s. 6 of the Calcutta Port (Amendment) Act, 1920 (Ben. Act VII of 1920).

⁵These words were inserted by s. 4 of the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

⁶See foot-note 2 on page 22. *ante*.

⁷These words were substituted for the words "Secretary of State for India in Council" by para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁸See foot-note 2 on page 12. *ante*.

⁹The words "with the previous sanction of the Governor-General in Council" were omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

¹⁰See foot-note 3 on page 12. *ante*.

(Chapter III.— Of the Borrowing Powers of the Commission.—
Sections 24, 24A.)

contracted by the Commissioners, under this Act shall be contracted in India and in the Indian currency.

Establishment of sinking fund.

24. ¹(1) The Commissioners shall, in respect of each loan contracted by them by way of debenture under sections 19 and 22, pay into a sinking fund half-yearly out of their income before making any other disbursements such amounts as will suffice to liquidate the nominal amount of each such loan within such period as the ²[Central Government] may in each case direct, provided that such period may exceed the term of the debenture loan but shall in no case exceed sixty years.

Application of sinking fund.

(2) The Commissioners in meeting may, at any time, apply the whole or any part of a sinking fund, set apart under this section, in or towards the discharge of the moneys for the repayment of which the fund has been established :

Provided that they pay into the fund in each year, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.

Investment of sinking fund.

(3) Such sinking fund shall be invested in ³[public securities or in such other securities as the Central Government may approve in this behalf], in the names of two trustees, one being the Commissioner, and the other a person to be appointed by the ⁴[Central Government].

Annual examination of sinking fund.

⁵24A. ⁶[(1)] The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Accountant-General, ⁷[West Bengal], who shall ascertain whether the cash and the ⁸[current market value] of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had

¹Sub-section (1) was substituted for the original sub-section by s. 2 of the Calcutta Port (Amendment) Act, 1934 (Ben. Act IV of 1934).

²See foot-note 2 on page 22, *ante*.

³These words were substituted for the words "the Promissory notes and other securities of the Central Government or in the debentures issued by the Commissioners under this Act" by s. 77 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁴See foot-note 2 on page 12, *ante*.

⁵Section 24A was inserted by s. 6 of the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

⁶Section 24A was re-numbered as sub-section (1) of that section by s. 3 of the Calcutta Port (Amendment) Act, 1934 (Ben. Act IV of 1934).

⁷These words were substituted for the word "Bengal" by paragraph (2) of Article 3 of the Indian Independence (Adaptation of Bengal and Punjab Acts) Order, 1948.

⁸These words were substituted for the words "current value" by s. 78 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

of 1890.]

(Chapter III.—Of the Borrowing Powers of the Commission.—
Section 24B.)

investments been regularly made, and had the rate of interest as originally estimated been obtained thereon.

The Commissioners shall pay forthwith into the sinking fund any amount which the Accountant-General may certify to be deficient, unless the ¹[Central Government] specially sanctions a gradual readjustment.

²(2) If the cash and the ³[current market value] of the securities at the credit of the sinking fund are in excess of the amount which should be at its credit the Accountant-General shall certify the amount of this excess, and the Commissioners in meeting may, with the previous sanction of the ¹[Central Government],—

- (a) withdraw the whole or any part of the certified excess, in which case the trustees in whose names the sinking fund is invested under sub-section (3) of section 24 shall forthwith transfer securities of the requisite ⁴[current market value], or cash and securities of the requisite ³[current market value], to the Commissioners ; or
- (b) reduce or discontinue the half-yearly contributions to the sinking fund prescribed by sub-section (1) of section 24 ; or
- (c) adopt a combination of these measures.

²(3) The withdrawal of the whole or any part of an amount which on the annual examination of the sinking fund by the Accountant-General was ascertained to be in excess of the amount which should have been at the credit of that fund and the transfer, for the purpose of such withdrawal, of cash and securities of the requisite ⁴[current market value] to the Commissioners by the trustees in whose names the sinking fund was invested under sub-section (3) of section 24, made at any time before the commencement of the Calcutta Port (Amendment) Act, 1934, shall be and shall be deemed always to have been valid and lawful.

Ben. Act IV
of 1934.

⁴24B. (1) The Commissioners in meeting may, from time to time, set aside such sums out of their revenue surplus, as they think fit, as a reserve fund or funds for the purpose of providing against any temporary decrease of revenue or increase of expenditure from tran-

Establishment of reserve fund.

¹See foot-note 2 on page 22, *ante*.

²Sub-sections (2) and (3) were added by s. 3 of the Calcutta Port (Amendment) Act, 1934 (Ben. Act IV of 1934).

³See foot-note 8 on page 24, *ante*.

⁴Sections 24B and 24C were inserted by s. 2 of the Calcutta Port (Amendment) Act, 1923 (Ben. Act VI of 1923).

(Chapter III.—Of the Borrowing Powers of the Commission.—
Section 24C.)

sient causes or for purposes of replacement, or for meeting expenditure arising from loss or damage from fire, ship-wreck or other accident or for any other emergency arising in the ordinary conduct of their work under this Act :

Provided that the sums set aside as a reserve fund or funds shall not exceed such amount, annual or in the aggregate, as shall from time to time be prescribed by the ¹[Central Government].

(2) Such reserve fund or funds may be invested only in ²[public securities or in such other securities as the Central Government may approve in this behalf].

Power to
reserve
debentures
or securities
for
Commis-
sioners.

³24C. (1) For the purposes of any investment which the Commissioners are authorised to make by this Act, it shall be lawful for the Commissioners in meeting to reserve and set apart any debentures or securities to be issued by them on account of any loan to which the approval of the ¹[Central Government] has been given :

Provided that in the case of any issue offered to the public, the intention so to reserve and set apart such debentures or securities shall have been notified as a condition of the issue of the loan.

(2) The issue of any such debentures or securities direct to and in the name of the Commissioners themselves, shall not operate to extinguish or cancel such debentures or securities, but every debenture or security so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(3) The purchase by the Commissioners or the transfer, assignment or endorsement to the trustees of the sinking fund or the Commissioners, of any debenture or security issued by the Commissioners, shall not operate to extinguish or cancel any such debenture or security, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person.

⁴(4) All the debentures or securities of the Commissioners heretofore purchased by, issued, transferred or assigned to, or indorsed into

¹See foot-note 2 on page 12, *ante*.

²These words were substituted for the words "the promissory notes and other securities of the Central Government or in the debentures issued by the Commissioners under this Act" by s. 79 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

³See foot-note 4 on page 25, *ante*.

⁴This sub-section (4) was added by s. 80 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

of 1890.]

(Chapter III.—Of the Borrowing Powers of the Commission.—
Sections 25—27.)

the names of the Commissioners or any person on their behalf, and all debentures and securities heretofore issued by way of renewal, consolidation or sub-division of any such debentures or securities, shall be and shall be deemed to have always been valid and negotiable in all respects and in the same manner and to the same extent as if held by, or issued, transferred, assigned, or indorsed to, any other person.

25. It shall be lawful for the Commissioners in meeting, from time to time, to borrow moneys from the ¹[Central Government] at such rate of interest and upon such terms as to the time of re-payment and otherwise as the ²[Central Government] may approve, for the construction, equipment, maintenance and management of any works or arrangements sanctioned by the ³[Central Government] under this Act.

Power to borrow moneys for construction of works.

26. In case of default of payment of any interest, the ¹[Central Government] shall have the same remedies as may be available to other debenture-holders of the Commissioners under this Act ; but nothing in this Act shall be deemed to confer upon the ¹[Central Government] any prior or greater right than that conferred upon other debenture-holders of the Commissioners under this Act.

Government how to proceed on default of payment of interest.

27. ¹[The Commissioners in meeting may, with the previous sanction of the Central Government, apply any sums], out of any moneys which may come into their hands under the provisions of this Act, and which can be so applied without prejudicing the security of the other debenture-holders of the Commissioners under this Act, ²[in repaying] to the ³[Central Government] any sum which, for the time being, may remain due to ⁴[it] under the provisions of this Act for principal, although, the time fixed for the repayment of the same shall not have arrived :

Power to repay loans before due date.

Provided that no such repayment shall be made of any sum less than ten thousand rupees ; and that, if such repayment is made, the amount

¹See foot-note 7 on page 23. *ante*.

²See foot-note 2 on page 22. *ante*.

³See foot-note 2 on page 12. *ante*.

⁴These words were substituted for the words "It shall be lawful for the Commissioners in meeting, if they think fit" by s. 81 (a) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁵These words were substituted for the words "to repay" by s. 81 (b), *ibid*.

⁶This word was substituted for the word "him" by paragraph 5 (2) of the Government of India (Adaptation of Indian Laws) Order, 1937.

(Chapter III.—Of the Borrowing Powers of the Commission.—
Sections 27A—27C.)

of interest in each succeeding half-yearly instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal.

Right of survivors of joint or several payees of debentures or securities.

¹27A. (1) Notwithstanding anything in section 45 of the Indian Contract Act, 1872,—

IX of 1872.

(a) when any debenture or security issued by the Commissioners under this Act is payable to two or more persons jointly, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of those persons, and

(b) when any such debenture or security is payable to two or more persons severally, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of those persons or to the representatives of the deceased or to any of them.

(2) This section shall apply whether such death occurred or occurs before or after the commencement of this Act.

(3) Nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any debenture or security to which subsection (1) applies.

(4) For the purposes of this section, a body incorporated under the Indian Companies Act, 1913, or the Co-operative Societies Act, 1912, or any other enactment for the time being in force, whether within or without India, relating to the incorporation of association of individuals, shall be deemed to die when it is dissolved.

VII of 1913.
II of 1912.

Power of one of two or more joint holders to grant receipts.

¹27B. Where two or more persons are joint holders of any debenture or security issued by the Commissioners under this Act, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Commissioners by any other of the holders.

Indorsements to be made on debenture or security itself.

¹27C. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881, no indorsement of a debenture or security issued by the Commissioners under this Act and transferable by indorsement shall be valid unless made by the signature of the holder inscribed on the back of the debenture or the security itself.

XXXVI of 1881.

¹Sections 27A to 27L were inserted by s. 82 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

of 1890.]

(Chapter III.—Of the Borrowing Powers of the Commission.—
Sections 27D—27F.)

XXXVI of
1881.

¹27D. Notwithstanding anything in the Negotiable Instruments Act, 1881, a person shall not by reason only of his having indorsed any debenture or security issued by the Commissioners under this Act be liable to pay any money due either as principal or as interest thereunder.

Indorser of debentures or securities not liable for amount thereof.

¹27E. (1) The signature of the persons authorised to sign debentures or securities on behalf of the Commissioners may be printed, engraved or lithographed or impressed by such other mechanical process as the Commissioners in meeting may direct, on the debentures or securities.

Impression of signature on debentures and securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.

¹27F. (1) When any debenture or security issued by the Commissioners under this Act, is alleged to have been lost, stolen or destroyed either wholly or in part, and a person claims to be the person to whom, but for the loss, theft or destruction it would be payable, he may, on application to the Commissioners and on producing proof to their satisfaction of the loss, theft or destruction and of the justice of the claim and on payment of such fee, if any, as may be prescribed by rules made under section 27-I, obtain from the Commissioners an order for—

Issue of duplicate debentures and securities.

- (a) the payment of interest in respect of the debenture or security said to be lost, stolen or destroyed pending the issue of a duplicate debenture or security, and
- (b) the issue of a duplicate debenture or security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of such notification as may be prescribed by rules made under section 27-I of the loss, theft or destruction.

(3) A list of the debentures or securities in respect of which an order is passed under sub-section (1) shall be published in such manner as may be prescribed by such rules.

(4) If at any time before the Commissioners become discharged under the provisions of this Act from liability in respect of any debenture or security the whole of which is alleged to have been lost, stolen or destroyed, such debenture or security is found, any order passed in respect thereof under this section shall be cancelled.

¹See foot-note 1 on page 28. *ante*.

(Chapter III.—Of the Borrowing Powers of the Commission.—
Sections 27G, 27H.)

Issue of
converted
etc.,
debentures
and
securities.

27G. (1) The Commissioners may, subject to such conditions as may be prescribed by rules made under section 27-I, on the application of a person claiming to be entitled to any debenture or security or debentures or securities issued by the Commissioners under this Act, on being satisfied of the justice of the claim and on delivery of the debenture or security or debentures or securities received in the manner prescribed by such rules and on payment of such fees, if any, as may be so prescribed, convert, consolidate or sub-divide the debenture or security or debentures or securities and issue to the applicant a new debenture or security or debentures or securities accordingly.

(2) The conversion, consolidation or sub-division referred to in sub-section (1) may be into a debenture or security or debentures or securities of the same or different classes or of the same or different loans.

Discharge
in certain
cases.

27H. Notwithstanding anything contained in section 10 of the Indian Limitation Act, 1908,—

IX of 1908.

(i) on payment of the amount due on any debenture or security issued by the Commissioners under this Act on or after the date on which payment becomes due, or

(ii) when a duplicate debenture or security has been issued under section 27F, or

(iii) when a new debenture or security or debentures or securities has or have been issued upon conversion, consolidation or sub-division under section 27G,

the Commissioners shall be discharged from all liability in respect of the debenture or security or debentures or securities so paid or in place of which a duplicate or new debenture or security or debentures or securities has or have been issued—

(a) in the case of payment after the lapse of six years from the date on which payment was due ;

(b) in the case of a duplicate debenture or security—after the lapse of six years from the date of the publication under sub-section (3) of section 27F of the list in which the debenture or security is first mentioned or from the date of the last payment of interest on the original debenture or security, whichever date is later ;

¹See foot-note 1 on page 28, *ante*.

of 1890.]

(Chapter III.—Of the Borrowing Powers of the Commission.—
Section 27-I.)

- (c) in the case of a new debenture or security issued upon conversion, consolidation or sub-division—after the lapse of six years from the date of the issue thereof.

¹27-I. (1) The Commissioners in meeting may from time to time make rules to provide for all or any of the following matters, namely :—

Powers of Commissioners to make rules.

- (a) the person, if any, authorised to sign, and the mode of affixing the corporate seal and of attestation of documents relating to the debentures and other securities issued by the Commissioners under this Act ;
- (b) the manner in which payment of interest in respect of such debentures or other securities is to be made and acknowledged ;
- (c) the circumstances and the manner in which such debentures and other securities may be renewed ;
- (d) the circumstances in which such debentures and other securities must be renewed before further payment of interest thereon can be claimed ;
- (e) the forms in which the debentures or other securities delivered for renewal, conversion, consolidation or sub-division are to be receipted ;
- (f) the proof which is to be produced by persons applying for duplicate debentures or other securities ;
- (g) the form and manner of publication of the notification mentioned in sub-section (2) of section 27F and the manner of publication of the list mentioned in sub-section (3) of that section ;
- (h) the nature and amount of indemnity to be given by a person applying for the payment of interest on such debentures or other securities alleged to have been wholly or partly lost, stolen or destroyed or for the issue of duplicate debentures or other securities ;
- (i) the conditions subject to which such debentures or other securities may be converted, consolidated or sub-divided ;
- (j) generally all matters connected with the grant of duplicate, renewed, converted, consolidated and sub-divided debentures or other securities ; and
- (k) the fees to be levied in respect of the issue of duplicate debentures or other securities and of the renewal, conver-

¹See foot-note 1 on page 28. *ante*.

(Chapter III.—Of the Borrowing Powers of the Commission.—
Sections 27J, 27K.)

sion, consolidation and sub-division of the debentures or other securities issued by the Commissioners under this Act.

(2) The Commissioners in meeting may from time to time repeal, alter or add to any rule made under this section.

(3) No rule or repeal or alteration of, or addition to, a rule shall have effect until approved by the Central Government and such approval has also been published in the *Official Gazette*.

(4) No rule and no repeal or alteration of, or addition to, any rule shall be approved by the Central Government until the same has been published in two consecutive issues of the *Official Gazette* and until fourteen days have expired from the date on which the same had been first published in that *Gazette*.

(5) The Central Government may at any time by notification in the *Official Gazette* cancel any rule published under the provisions of this section.

Limitation
of claims
against
sinking
fund
trustees in
respect of
debentures.

¹27J. Notwithstanding anything contained in the Indian Limitation Act, 1908, no claim shall lie against the trustees of the sinking fund in respect of any debenture issued by the Commissioners under this Act after the lapse of six years from the earliest date on which demand could have been made for the payment of the amount due on such debenture.

IX of 1908.

Power of
Commis-
sioners to
borrow by
means of
temporary
overdraft or
otherwise.

¹27K. Notwithstanding anything contained in this Act, the Commissioners in meeting may borrow moneys by means of temporary overdraft or otherwise by pledging the debentures or other securities held by them in their reserve funds or on the security of their fixed deposits in their banks :

Provided that such temporary overdraft or other loans—

- (a) shall not at any time have a longer currency than six months, and
- (b) shall not be taken without the previous sanction of the Central Government, if at any time in any year the amount of such overdrafts or other loans exceeds ten lakhs of rupees :

Provided further that all moneys so borrowed by temporary overdraft or otherwise shall be expended for the purposes of this Act.

¹See foot-note 1 on page 28, *ante*.

of 1890.]

(Chapter III.—Of the Borrowing Powers of the Commission.—
Sections 27KK, 27L.—Chapter IV.—Of the General Powers of the
Commission.—Part I.—Of the Duties of the Commission.—
Sections 28, 29.)

¹27KK. Notwithstanding anything contained in this Act or in any other law for the time being in force, the Commissioners in meeting may, with the previous sanction of the Central Government and on such terms and conditions as may be approved by that Government, raise for the purposes of this Act loans in any currency or currencies from the International Bank for Reconstruction and Development or from any other bank or institution in any country outside India ; and no other provision of this Chapter shall apply to or in relation to any such loan unless the terms and conditions of the loan or the approval thereof by the Central Government shall otherwise provide.

Power of Commissioners to borrow money from the International Bank for Reconstruction and Development or other foreign institution.

IX of 1914.

¹27L. Nothing contained in this Act shall be deemed to affect the power of the Commissioners in meeting to raise loans under the Local Authorities Loans Act, 1914.

Power of the Commissioners to raise loans under the Local Authorities Loans Act, 1914.

CHAPTER IV

Of the General Powers of the Commission.

PART I.—Of the duties of the Commission.

28. (1) No act or proceeding of the Commissioners shall be invalidated or illegal in consequence only of there being a vacancy in the number of the Commissioners at the time of doing or executing such act or proceeding.

Acts or proceedings of Commissioners not to be invalidated in consequence of vacancy.

(2) All proceedings of the Commissioners, or of any person acting as a Commissioner in the bona fide belief that he was duly elected or appointed, shall, notwithstanding it be afterwards discovered that there was some defect in the election or appointment of the Commissioner or person acting as aforesaid, be as valid as if every such person had been duly elected or appointed to be a Commissioner.

Proceedings not to be invalidated by informality in election or appointment.

29. The Commissioners may, from time to time, in accordance with a resolution passed at a meeting, appoint Committees of their

Commissioners may appoint Committees.

¹Inserted by s. 3 of the Bombay, Calcutta and Madras Port Trusts (Amendment) Act, 1958 (XIII of 1958).

²See foot-note 1 on page 28. ante.

(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Sections 30, 30A.)

number for carrying into effect any part of the provisions of this Act, with such powers, and under such instructions, directions or limitations as by such resolution shall be defined ; and on any such Committee three members shall be a quorum ; and the Commissioners in meeting shall have power to alter or discontinue any such committee.

Commissioners to prepare and in meeting sanction, schedule of establishment.

30. (1) The Commissioners shall, from time to time, prepare, and in meeting sanction, a schedule of the staff of ¹[employees] whom they shall deem it necessary and proper to maintain for the purposes of this Act.

(2) Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Commissioners in meeting sanction for each such ²[employee] :

Provided that artisans, porters and labourers, and sirdars of porters and labourers, shall not be deemed to be ¹[employees] within the meaning of this section, or of ³[section 32] of this Act.

Power to Commissioners to establish a provident fund and to grant long service bonuses.

⁴30A. The Commissioners may, with the approval of the ⁵[Central Government]—

- (i) establish a provident fund for the benefit of their ¹[employees] appointed in accordance with the provisions of this Act, and compel all or any of such ¹[employees] to contribute to, and make supplementary contributions to, such provident fund and make payments thereout in accordance with the rules of such fund ; and
- (ii) make payments out of their general revenues of bonuses based on the length of service of the ¹[employees] appointed in accordance with this Act, to such ¹[employees] or to the widows or dependent children ⁶[or other surviving

¹This word was substituted for the words "officers and servants" by s. 83 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²This word was substituted for the words "officer or servant" by s. 83, *ibid.*

³This word and figures within square brackets were substituted for the words, figures, brackets and letters "section 31, except clauses (g) and (h) thereof, section 32 or section 33" by s. 84, *ibid.*

⁴Section 30A was inserted by s. 4 of the Calcutta Port (Amendment) Act, 1923 (Ben Act VI of 1923).

⁵See foot-note 2 on page 12. *ante.*

⁶These words were inserted by s. 85 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Section 31.)

dependent relatives] of such of them as may die while still
in the service of the Commissioners.

31. (1) The Commissioners in meeting shall, from time to time,
frame rules—

Power to
frame rules.

- (a) for regulating the grant of leave to the ¹[employees] of the Commissioners ;
- (b) for authorizing the payment of allowances to the said ¹[employees], or to certain of them whilst absent on leave ;
- (c) for determining the remuneration to be paid to the persons appointed to act for any such ¹[employees] during their absence on leave ;
- (d) for regulating the period of service of all such ¹[employees] ;
- (e) for determining the conditions under which such ¹[employees] or any of them shall, on retirement, receive pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances ;
²[and]
- (f) for authorizing the payment of contributions at certain prescribed rates, and, subject to certain prescribed conditions, to any provident fund which may, with their approval, be established by the ¹[employees] appointed under this Act ;^{3*}
- ⁴(g) for prescribing the rates and the conditions under which the contributions may be paid by the Commissioners and their ¹[employees] to the provident fund which may be established under section 30A, and for determining the conditions of payments from the fund and the conditions of payments under clause (ii) of section 30A of bonuses based on length of service ;^{5*}

¹See foot-note 1 on page 34, *ante*.

²*Sic Omit "and."*

³The word "and" was omitted by s. 5 (1) (a) of the Calcutta Port (Amendment) Act, 1923 (Ben. Act VI of 1923).

⁴Clause (g) was inserted by s. 5 (1) (b), *ibid*.

⁵The word "and" was omitted by s. 86 (1) (a) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Section 31.)

¹(gg) for authorising the payment of contributions to any welfare fund or loan fund which may be established by the Commissioners for the benefit of their employees :

Provided that no such loan fund shall be established without the previous sanction of the Central Government and the maximum rate of annual contribution to any such welfare fund or loan fund and the maximum amount to which any such fund may be allowed to accumulate shall be fixed from time to time by the Central Government ;

²[(h)] for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any of such ³[employees] injured, or to surviving relatives of any such ³[employees] killed, in the execution of their duty, whether the injury or death occurred before or after the commencement of the Calcutta Port (Amendment) Act, 1910 ;

⁴(i) for regulating the recruitment, promotion, conduct, discipline, punishment and any other matter relating to the terms and conditions of service applicable to the employees of the Commissioners, or allotment of premises to them or their rights and their privileges, not covered by any of the foregoing clauses.

⁵* * * * *

⁶(2) In the event of any question arising as to the right of any ⁷[employee], or any surviving relative of any ⁷[employee], to any pension, gratuity or compassionate allowance referred to in clause (e) or ⁸[clause (h)], or as to the amount thereof, such question shall be determined by the ⁹[Central Government].

Central Government to determine right to pension, etc.

Ben. Act I of 1910.

¹This clause was inserted by s. 86 (j) (b) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²This clause was re-numbered as clause (h) by s. 5 (j) (c) of the Calcutta Port (Amendment) Act, 1923 (Ben. Act VI of 1923).

³See foot-note 1 on page 34, *ante*.

⁴Clause (i) was inserted by s. 86 (j) (c) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁵The proviso was omitted by s. 86 (j) (d), *ibid*.

⁶This sub-section was substituted for the original sub-section by s. 3 (2) of the Calcutta Port (Amendment) Act, 1910 (Ben. Act I of 1910).

⁷See foot-note 2 on page 34, *ante*.

⁸This word, letter and brackets were substituted for the word, letter and brackets "clause (g)" by s. 5 (2) of the Calcutta Port (Amendment) Act, 1923 (Ben. Act VI of 1923).

⁹See foot-note 2 on page 12, *ante*.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Sections 32, 32A.)

(3) Rules made under ¹[sub-section (1)] shall not take effect unless and until they have been ²[approved] by the ³[Central Government].

Rules not to take effect until confirmed by Central Government.

Appointments, etc., by whom to be made.

⁴32. (1) Subject to the provisions of the Schedule, for the time being in force, sanctioned by the Commissioners under section 30 and of the rules framed under section 31 and also to the provisions of section 34, the power of appointing, promoting, granting leave to, suspending, fining, reducing or dismissing, or of disposing of any other question relating to the services of the employees of the Commissioners including the power of dispensing with the services of any such employee otherwise than by reason of the misconduct of such employee shall be exercised, in the case of employees whose maximum monthly salary exclusive of allowances is less than one thousand rupees, by the Chairman or the Deputy Chairman, and in every other case, by the Commissioners in meeting.

(2) The Chairman may, upon such terms as he may think fit and subject to the provisions referred to in sub-section (1) and to the Chairman's powers of revision and control, delegate to the head of any department for the time being all or any of his powers under the said sub-section in respect of the employees of that department whose monthly maximum salary, exclusive of allowances, does not exceed three hundred and fifty rupees.

(3) Notwithstanding anything contained in sub-section (1), the power to make appointment to posts of heads of departments shall be exercisable only by the Central Government after consultation with the Chairman.

(4) The Central Government may by order specify each of the posts the incumbent of which shall for the purposes of this section be regarded as the head of a department.

⁵32A. Notwithstanding anything contained in section 57, all fines realised under the preceding section "[shall be credited to any such

Disposal of fines realized under section 32.

¹The word, brackets and figure were substituted for the words, brackets and letters "clauses (a) to (e) (both inclusive) and under clauses (g) and (h)" by s. 86 (2) (a) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²This word was substituted for the word "confirmed" by s. 86 (2) (b), *ibid.*

³See foot-note 2 on page 12, *ante.*

⁴This section 32 was substituted for the original section by s. 87 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁵Section 32A was inserted by s. 3 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act IV of 1895).

⁶These words were substituted for the words "shall be disposed of in such manner as the Commissioners may think fit" by s. 88 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

(Chapter IV.—Of the General Powers of the Commission.—
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welfare fund as may be established by the Commissioners for the benefit of their employees].

33. [Commissioners in meeting to exercise certain powers with respect to ¹(employees).]—Rep. by s. 89 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

Certain orders of Commissioners subject to previous sanction of Central Government.

²34. (1) Every order made by the Commissioners under section 30 or section 32, save where such order has been made in accordance with the rules, for the time being in force, framed under section 31, shall so far as the same relates to the Deputy Chairman or to any employee of the Commissioners whose maximum monthly salary exclusive of allowances is not less than one thousand rupees, be subject to the sanction of the Central Government.

(2) For the purposes of sub-section (1), any person who may, from time to time, be employed as Consulting Engineer to the Commissioners, otherwise than on the basis of payment of monthly salary, shall be deemed to be an employee whose maximum monthly salary exclusive of allowances is not less than one thousand rupees.

Works to be constructed and carried out by Commissioners.

³35. The works to be constructed and carried out by Commissioners under the provisions of this Act may include—

- (1) docks, wharves, quays, stages, jetties and piers, within the Port, with all necessary and convenient arches, drains, landing-places, ⁴[shelters for passengers], stairs, fences and approaches ; and quarters and buildings necessary for the residence of the officers employed therefor ;
- (2) railways ;
- (3) warehouses and sheds, with all necessary appliances for receiving and storing goods landed or to be shipped or carried, and places suitable for the sampling and selling of such goods ;
- (4) laying down moorings for carrying out the purposes of this Act ; and the erection of cranes, scales, and all other necessary means and appliances for loading and unloading vessels ;

¹See foot-note 1 on page 34, *ante*.

²This new section 34 was substituted for the original section by s. 90 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

³Section 35 was substituted for the former section by s. 2 of the Calcutta Port (Amendment No. II) Act, 1895 (Ben. Act VI of 1895).

⁴These words were inserted by s. 2 of the Calcutta Port (Amendment) Act, 1926 (Ben. Act I of 1926).

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Sections 35A, 36, 37.)

- (5) reclaiming, enclosing and raising any part of the river bank or the river bed within the Port, which may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act ;
- (6) the construction and application of dredgers and other machines for clearing, deepening and improving the river bed within the Port ;
- (7) the building of steam-vessels required for the purpose of towing vessels in Port ;
- ¹(7a) the building of vessels for the carrying of passengers and their personal effects within, or partly within and partly without, the limits of the Port ;
- (8) the construction of such works without the limits of the Port as shall be necessary for the protection of works executed under this Act ; and all such other works and appliances as may, in the opinion of the Commissioners in meeting, be necessary for carrying out the purposes of this Act ;
- ²(9) the sinking of tubewells and the equipment, maintenance and use of boats, barges and other appliances for the purpose of the supply of water to shipping at the Port.

³35A. * * *

36. (1) The ⁴[Central Government] may, at any time, order a local survey and examination of any works of the Commissioners under this Act, or the intended site thereof.

Government may order local survey and examination of works.

(2) The cost of such survey and examination shall be borne and paid by the Commissioners out of the moneys in their hands by virtue of this Act.

Cost of survey and examination to be borne by Commissioners.

37. (1) If the Commissioners shall allow any work constructed by them under this Act to fall into disrepair, or shall not complete any

Central Government to restore, complete or construct works on failure of Commissioners.

¹Clause (7a) was inserted by s. 4 of the Calcutta Port (Amendment) Act, 1905 (Ben. Act IV of 1905).

²Clause (9) was added by s. 91 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

³Firstly, the section 35A was inserted by s. 2 of the Calcutta Port (Amendment) Act, 1970 (Act XV of 1970). Thereafter section 35A was not in force as the Calcutta Port (Amendment) Act, 1970, was repealed by s. 2 and the First Schedule of the Repealing and Amending Act, 1974 (Act LVI of 1974).

⁴See foot-note 2 on page 12, *ante*.

(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Section 38.)

work commenced by them or included in any estimate as aforesaid submitted and approved of, and shall not, after due notice in writing, proceed effectually to repair or complete such work under this Act, it shall be lawful for the ¹[Central Government] to cause such work to be restored, completed or constructed, either by the officers of the ¹[Central Government] or any private contractor.

(2) The cost of any such restoration, completion or construction shall be a charge on the works and a debt due from the Commissioners to the ²[Central Government.]

³(3) * * *

Cost of restoration, etc., of work to be debt due to Government.

Power to supersede the Commissioners.

⁴38. (1) If, at any time, the Central Government is of opinion—

- (a) that on account of grave emergency, the Commissioners are unable to perform the duties imposed on them by or under the provisions of this Act or of any other law, or
- (b) that the Commissioners have persistently made default in the performance of the duties imposed on them by or under the provisions of this Act or of any other law and as a result of such default, the financial position of the Commissioners or the administrations of the Port has greatly deteriorated,

the Central Government may, by notification in the *Official Gazette*, supersede the Commissioners for such period not exceeding six months at a time, as may be specified in the notification :

Provided that before issuing a notification under this sub-section for reasons mentioned in clause (b), the Central Government shall give a reasonable time of not less than three months to the Commissioners to show cause why they should not be superseded and shall consider the explanations and objections, if any, of the Commissioners.

(2) Upon the publication of a notification under sub-section (1) superseding the Commissioners, the following consequences shall ensue :—

¹See foot-note 2 on page 12, *ante*.

²See foot-note 7 on page 23, *ante*.

³Firstly, this sub-section was inserted by s. 3 of the Calcutta Port (Amendment) Act, 1970 (Act XV of 1970). Thereafter this sub-section was not in force as the Calcutta Port (Amendment) Act, 1970 was repealed by s. 2 and the First Schedule of the Repealing and Amending Act, 1974 (Act LVI of 1974).

⁴This section 38 was substituted for the original section by s. 92 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

of 1890.]

*(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Section 39.)*

- (a) all the Commissioners shall, as from the date of supersession, vacate their offices as such Commissioners ;
- (b) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Commissioners, shall, until the Commissioners are reconstituted under clause (b) or clause (c) of sub-section (3), be exercised and performed by such person or persons as the Central Government may direct ;
- (c) all property vested in the Commissioners shall, until the Commissioners are reconstituted under clause (b) or clause (c) of sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

- (a) extend the period of supersession for such further term, not exceeding six months, as it may consider necessary ; or
- (b) reconstitute the Commissioners by fresh appointment and fresh election, and in such case any persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment or election, as the case may be ; or
- (c) reconstitute the Commissioners by appointment only for such period as it may consider necessary and in such a case, the persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for such appointment merely because they were Commissioners at the time of supersession :

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) or clause (c) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before Parliament at the earliest possible opportunity.

39. [*Property vested in Commissioners to be transferred to, and vested in, Government.—Rep. by s. 93 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).*]

(Chapter IV.—Of the General Powers of the Commission.—
Part II.—Of the mode of transacting Business and entering into
Contracts.—Sections 40 — 42, 42A, 43, 44.)

PART II.—Of the mode of transacting Business and entering into
Contracts.

Meetings of
Commissioners.

40. (1) The Commissioners shall meet, for the transaction of business, ordinarily once in every fortnight.

(2) Such meetings shall be held upon such day and at such hour as the Commissioners shall from time to time determine.

(3) At every meeting of the Commissioners five members shall constitute a quorum.

Chairman
may call
special
meetings of
Commissioners or
Committee.

41. The Chairman, or, in his absence, the ¹[Deputy Chairman], may, whenever he thinks fit, and shall, upon request made in writing by three Commissioners or two members of any Committee, call a special meeting of the said Commissioners or Committee, as the case may be.

Chairman
and Deputy
Chairman to
attend and
preside at
all meetings
of
Commissioners.

42. (1) The Chairman ²[and the Deputy Chairman] shall attend all meetings of the Commissioners held under this Act, unless prevented by sickness or other reasonable cause; and the Chairman or in his absence, the ³[Deputy Chairman] shall preside at every such meeting.

(2) In the absence of both the Chairman ²[and the Deputy Chairman], the Commissioners present at any meeting may choose one of their number to preside.

Chairman to
be
wholetime
officer.

⁴42A. While any person is holding the office of Chairman he shall not hold any other salaried office, and, subject to any exceptions permitted by the ⁵[Central Government], shall devote his whole time and attention to his duties under this Act.

President
may
adjourn
meetings.

43. The President of any meeting at which a quorum of the Commissioners shall be present may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

Minutes of
proceedings
to be kept
open for
inspection
free of
charge.

44. (1) Minutes of the proceedings of all meetings of the Commissioners under this Act shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the President after each meeting.

¹These words were substituted for the words "Vice-Chairman" by s. 2 of the Calcutta Port (Amendment) Act, 1920 (Ben. Act VII of 1920).

²These words were substituted for the words "or Vice-Chairman" by s. 10(a), *ibid.*

³These words within square brackets were substituted for the word "Vice-Chairman" by s. 10(b), *ibid.*

⁴Section 42A was inserted by s. 11, *ibid.*

⁵See foot-note 2 on page 12, *ante.*

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part II.—Of the mode of transacting Business and entering into
Contracts.—Sections 45 — 47.)

(2) The said minutes shall, at all reasonable times, be open at the office of the Commissioners to the inspection of any Commissioner without charge ¹[and shall, excepting such portion thereof as the Chairman may in any particular case direct, be open to the inspection also of the public at the office of the Commissioners during office hours on payment of such fee for each inspection as may from time to time be fixed by the Commissioners in meeting].

²(3) A summary of the said minutes shall, as soon as practicable, be published in the *Official Gazette*.

45. (1) Whenever necessary, the votes of the Commissioners present in meetings shall be taken by the President, and the resolution supported by the greater number of votes shall be deemed to be the resolution of the Commissioners at such meeting.

Votes to be taken by President.

(2) The President shall have a second or casting vote in all cases of equality of votes :

Provided that, when votes are taken, any Commissioner present may require that the votes given on each side shall be recorded.

46. A copy of the minutes of every meeting of the Commissioners shall, as soon as conveniently may be, be transmitted to such Secretary of the ³[Central Government] as shall, from time to time, be appointed for that purpose, and shall be preserved in the records of the office of such Secretary.

Copy of minutes of meetings to be preserved.

47. All the powers, authorities and duties in and by this Act, conferred or imposed upon the Commissioners, may be exercised and performed by the Chairman or ⁴[Deputy Chairman], save the powers, authorities and duties by this Act, or by any rule, bye-law or order made under the provisions of this Act, conferred or imposed on, or restricted to, the Commissioners in meeting :

Chairman or Deputy Chairman may exercise certain powers of Commissioners.

Provided that such powers, authorities and duties shall not be exercised by the Chairman or ⁴[Deputy Chairman] in contravention of any order issued or rule passed by the Commissioners in meeting.

¹These words were added by s. 94 (a) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²These sub-section was inserted by s. 94 (b), *ibid*.

³See foot-note 2 on page 12, *ante*.

⁴See foot-note 1 on page 42, *ante*.

(Chapter IV.—Of the General Powers of the Commission.—
Part II.—Of the mode of transacting Business and entering into
Contracts.—Sections 47A, 48 — 50.)

Powers and
duties of
Deputy
Chairman.

¹47A. In addition to any powers or duties conferred or imposed on the Deputy Chairman by any other provision of this Act or by any rule, bye-law or order made hereunder, the Deputy Chairman shall exercise such of the powers and perform such of the duties of the Chairman as the Commissioners in meeting may, subject to the approval of the ²[Central Government], from time to time, direct.

Powers of
Commissioners to
enter into
certain
contracts.

48. The Commissioners, in accordance with a resolution passed at a meeting, may enter into contracts with any body corporate, registered joint-stock company or private person for the execution or supply by them or him of any works, labour materials, machines, stores or for other matters necessary for carrying into effect the trusts and purposes of this Act :

³Provided that no contract, under or by virtue of which a sum greater than seven lakhs of rupees may in any event be payable by the Commissioners, shall be valid unless it has been made with the previous sanction of the Central Government.

Powers of
Commissioners in
meeting to
sanction
works and
make
contracts
for their
execution.

⁴49. The Commissioners in meeting may sanction works and enter into contracts for their execution :

Provided that no new work, the estimated cost of which exceeds ⁵[ten thousand] rupees, shall be commenced until a plan and estimate have been approved by the Commissioners in meeting.

Powers of
Chairman
as to
execution of
works.

⁶50. Notwithstanding anything contained in section 49 the ⁶[Chairman or the Deputy Chairman] may direct the execution of any work

¹Section 47A was inserted by s. 12 of the Calcutta Port (Amendment) Act, 1920 (Ben. Act VII of 1920).

²See foot-note 2 on page 12, ante.

³The proviso to section 48 was added by the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951), s. 95. The original proviso was repealed by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁴These sections 49 and 50 were substituted for the original sections by s. 2 of the Calcutta Port (Amendment) Act, 1912 (Ben. Act I of 1912).

⁵These words were substituted for the words "two thousand" by s. 96 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁶These words were substituted for the word "Vice-Chairman" by s. 2 of the Calcutta Port (Amendment) Act, 1920 (Ben. Act VII of 1920).

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part II.—Of the mode of transacting Business and entering into
Contracts.—Sections 51—53.)

the cost of which does not exceed ¹[five thousand] rupees, and may enter into contracts for the execution of such works ²[and in every such case, the Chairman or, as the case may be, the Deputy Chairman shall make a report to the Commissioners at their next meeting of any such directions given or contracts entered into by him.]

³51. No new work, the estimated cost of which exceeds two lakhs of rupees, shall be commenced by the Commissioners until the plan and estimate thereof have been submitted to, and approved by, the ⁴[Central Government] :

Certain new works subject to approval of Government.

⁵Provided that where the estimated cost of any new work has been approved by the Central Government, no expenditure which exceeds by more than ten *per cent.* the estimated cost so approved shall be incurred by the Commissioners without the previous approval of the Central Government.

52. The Commissioners may in meeting, compound or compromise for, or in respect of, any claim or demand made against them, for such sum of money or other compensation as they shall deem sufficient :

Commissioners may compound or compromise for any claim or demand made against them.

⁶Provided that no settlement shall be made under this section without the previous sanction of the Central Government if such settlement involves the payment by the Commissioners of a sum exceeding twenty-five thousand rupees.

⁷53. (1) The Chairman may, on behalf of the Commissioners, enter into any contract or agreement whereof the value or amount shall not exceed five thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf ; but every other contract or agreement on behalf of the Commissioners shall be in writing and shall

Mode of executing contracts or agreements.

¹These words were substituted for the words "one thousand" by s. 97 (a) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²These words were added by s. 97 (b), *ibid.*

³Section 51 was substituted for the original section by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

⁴See foot-note 2 on page 12, *ante.*

⁵This proviso was added by s. 98 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁶This proviso was added by s. 99, *ibid.*

⁷This new section 53 was substituted for the original section by s. 100, *ibid.*

(Chapter IV.—Of the General Powers of the Commission.—
Part II.—Of the mode of transacting Business and entering into
Contracts.—Section 54.—Part III.—Of the Property of the
Commissioners.—Section 55.)

be signed by the Chairman and by the two other Commissioners, and shall be sealed by the common Seal of the Commissioners.

(2) No contract or agreement not executed as is in this section provided shall be binding on the Commissioners.

Employee
not to be
concerned
or interest-
ed in con-
tracts or
works of
Commis-
sioners.

54. No [employee] of the Commissioners shall be in anywise concerned or interested in any contract or work made with or executed for the Commissioners ;

and, if any such [employee] be so concerned or interested, he shall be incapable of afterwards holding or continuing in any office or employment under the Commissioners, and shall forfeit and pay the sum of five hundred rupees, which may be recovered by suit by any person with full costs of suits :

Provided that nothing in this section shall apply to any person by reason only of his being a share-holder in any registered or incorporated company which may enter into any contracts with, or execute any works for the Commissioners ; or of his being interested as a debenture-holder in any loan contracted by the Commissioners.

PART III.—Of the Property of the Commissioners.

Powers of
Commis-
sioners as to
property
within or
without
limits of
Port.

55. The Commissioners shall, for the purposes of this Act, have power to acquire and hold immovable or movable property, whether within or without the limits of the Port, by conveyance, gift, lease, assignment, or sale²[from the Government], or any corporate body, or any registered joint-stock company or private person; and they shall also have power in meeting to lease or sell any immovable or movable property which may have become vested in or been acquired by them:

Provided that no such sale, or other alienation or lease of any immovable property for any estate or interest exceeding the term of³[thirty years], shall be valid unless the sanction of the⁴[Central

¹See foot-note 2 on page 34, *ante*.

²The words "from the Crown" were originally substituted for the words "from the Governor General in Council, or the Local Government, on behalf of the Secretary of State for India in Council" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

³These words were substituted for the words "ten years" by s. 101 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁴See foot-note 2 on page 12, *ante*.

of 1890.]

(Chapter IV.— Of the General Powers of the Commission.—
Part III.— Of the Property of the Commissioners.—
Sections 56—58.)

Government] to such sale, alienation or lease shall have been first obtained.

56. It shall not be lawful for the Commissioners to demise, farm, sell or alienate any power which, by or under this Act, may become vested in them of levying tolls, dues, rates, rents, or charges, unless the assent of the ¹[Central Government] to such demise, farm, sale or alienation shall have been first obtained.

Powers of Commissioners in certain cases subject to assent of Central Government.

57. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners, ²[shall be held by the Commissioners in trust for the purposes of this Act].

Property and moneys of Commissioners to be held upon trust for purposes of Act.

58. (1) When any land or building is required for the purposes of this Act, the ¹[Central Government] ³* * may declare that the land or building is required for a public purpose and ⁴[may cause] proceedings to be taken for obtaining possession of the same ⁵[for the Central Government] and for determining the compensation to be paid to the parties interested, according to any law in force for the acquisition of land for public purposes.

Acquisition of land or building for purposes of Act.

(2) On payment by the Commissioners of the compensation payable under such law, and of the charges reasonably incurred by the Collector in respect of the proceedings thereunder, such land or building shall vest in them for the purposes of this Act.

Land or building so acquired to vest in Commissioners.

¹See foot-note 2 on page 12, ante.

²These words were substituted for the words "shall be held upon trust for the purposes of this Act and not otherwise" by s. 102 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

³The words "in its discretion" were omitted by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴These words were substituted for the words "may order", *ibidi*.

⁵These words within square brackets were substituted for the words "for Government", *ibidi*.

(Chapter IV.—Of the General Powers of the Commission.—
Part IV.—Of the Assessment of the Property of the
Commissioners.—Section 59.)

PART IV.—Of the Assessment of the Property of the
Commissioners.

Annual
value of
property
vested in
Commis-
sioners how
to be
ascertained.

59. For the purposes of municipal assessment, the annual value of the property vested in the Commissioners within the municipal limits of Calcutta shall be ascertained in the following way :—

(1) The aggregate expenditure incurred in the construction of all docks, wharves, quays, stages, jetties, piers and other works belonging to the Commissioners ; also in the purchase of land ; also in the construction of offices, warehouse and other buildings belonging to them within the limits of Calcutta, as defined by the Calcutta Municipal Consolidation Act, 1888¹, shall be determined.

(2) Expenditure incurred in procuring or putting up machinery shall not be included in such aggregate expenditure.

(3) Expenditure incurred from time to time on account of repairs necessary to maintain any works or buildings in good order shall not be included in such aggregate expenditure.

(4) Expenditure for the purpose of materially adding to, or improving, any work or building shall be included in such aggregate expenditure.

(5) Five per cent. on the aggregate expenditure determined in the manner hereinbefore provided shall be the annual value of the rateable property of the Commissioners, within the meaning of section 122 of the Calcutta Municipal Consolidation Act, 1888.¹

²Provided that where any agreement has been reached between the Commissioners and the Corporation of Calcutta providing that the annual value of the properties vested in the Commissioners is to be ascertained for the purposes of municipal assessment on a basis different from that set out in the foregoing provisions of this section, the annual value may, with the approval of the State Government, be ascertained on such basis with effect from such date (which shall not be earlier than the 1st day of April, 1952) as the State Government may direct.

¹Bengal Act, II of 1888, was repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act III of 1899), which was repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923), which was again been repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951), which was further repealed and re-enacted by the Calcutta Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980) and the reference should now be construed as a reference to section 2, clause (9) of the last mentioned Act.

²Added by s. 2 of the Calcutta Port (Amendment) Act, 1954 (West Ben. Act XXV of 1954).

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part IV.—Of the Assessment of the Property of the
Commissioners.—Sections 60—65.)

60. The sum to be paid to the Corporation of Calcutta as the consolidated rate payable on the annual value determined as in the last preceding section provided shall be nine-tenths of the amount which would be payable by an ordinary owner occupying his own buildings and lands.

Sum paid as consolidated rate on annual value to be nine-tenths of amount payable by ordinary owner.

61. Such amount shall be payable in four quarterly instalments due on the first day of April, the first day of July, the first day of October and the first day of January for the quarters beginning with those days; and, if not so paid, the Corporation of Calcutta shall have the same remedies for the recovery of each instalment as in the case of other rate-payers.

Amount to be paid by four quarterly instalments.

62. The annual value shall, from time to time, be determined by the Corporation of Calcutta ; and sections 130, 131, 133, 135 and 136 of the Calcutta Municipal Consolidation Act, 1888¹, shall apply to such valuation.

Annual value to be determined by Calcutta Corporation.

Ben. Act II of 1888.

63. In the event of the Commissioners being dissatisfied with the order passed on objection by the Chairman or Vice-Chairman of the Corporation of Calcutta, they may, within one month, make a reference to the ²[Central Government] ; and the ²[Central Government] shall thereupon fix the annual value, in accordance with the provisions of section 59 ; and the decision of the ²[Central Government] shall be final and valid for a period of six years.

Annual value may be fixed by Central Government in certain cases.

64. [First valuation when to be made, and when to take effect.—Rep. by s. 103 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).]

65. (1) If, during the currency of a valuation made under the provisions of this Act, any new building, dock, jetty or other work is constructed, or any new land is acquired by the Commissioners, or any material improvement is made in any building, dock, jetty, or other work within Calcutta, the Corporation of Calcutta may determine the annual value of such new building, work or land, or of such improvement, and may add it to the annual value previously ascertained.

Calcutta Corporation to determine annual value of new buildings, etc., if acquired during currency of valuation.

(2) The provisions of sections 59 to 63 (both inclusive) shall apply to such valuation.

¹See foot-note 1 on page 48, ante.

²See foot-note 2 on page 12, ante.

(Chapter IV.—Of the General Powers of the Commission.—
Part IV.—Of the Assessment of the Property of the
Commissioners.—Sections 66, 66A—66C.)

Annual
value may
be renewed
at expira-
tion of first
valuation.

66. At the expiration of the first valuation made under this Act, such valuation, including any alterations made under the last preceding section, may, if so agreed upon by the Commissioners and the Corporation of Calcutta, be renewed for a further period of six years; and may similarly be renewed, from time to time, for periods of six years.

Mode of
calculating
annual
value of
building or
structure.

¹66A. (1) For the purpose of municipal assessment, in cases where any land vested in the Commissioners is let out to tenants and any building or structure is erected thereon by such tenants, the annual value of such building or structure, when erected, shall be five per cent. on the estimated present cost of erecting such building or structure, less a reasonable amount to be deducted on account of depreciation, if any :

²Provided that where any agreement has been reached between the Commissioners and the Corporation of Calcutta providing that the annual value of any building or structure erected on any land vested in the Commissioners let out to tenants is to be ascertained for the purposes of municipal assessment on a basis different from that set out in the foregoing provisions of this sub-section, the annual value may, with the approval of the State Government, be ascertained on such basis with effect from such date (which shall not be earlier than the 1st day of April, 1952) as the State Government may direct.

(2) The buildings and structures in each holding, as recorded in the rent register of the Commissioners, shall be separately valued and assessed.

Building or
structure to
be valued.

¹66B. Such building or structure may be valued annually at the discretion of the Corporation of Calcutta, and shall be so valued on the application of the owner. When not so valued, the former valuation shall remain in force from year to year until a revaluation is made.

Sum to be
paid as
consoli-
dated rate.

¹66C. The sum to be paid to the Corporation of Calcutta as the consolidated rate payable on the annual value of such building or structure as determined in accordance with the provisions of the last preceding section shall be the total amount of the rates fixed under section 71 of the Calcutta Municipal Consolidation Act, 1888³.

Ben. Act II
of 1888.

¹Sections 66A to 66N were inserted by s. 3 of the Calcutta Port (Amendment No. II) Act, 1895 (Ben. Act VI of 1895).

²Added by s. 3 of the Calcutta Port (Amendment) Act, 1954 (West Ben. Act XXV of 1954).

³See foot-note 1 on page 48, *ante*.

of 1890.]

(Chapter IV.— Of the General Powers of the Commission.—
Part IV.— Of the Assessment of the Property of the
Commissioners.—Sections 66D—66H.)

66D. The Corporation of Calcutta, by a notice in writing, may require the owner of any such building or structure to furnish them with returns or the measurements thereof ; and the Corporation of Calcutta or any person authorized by them in that behalf may, at any time between the hour of seven in the forenoon and sunset, enter on and inspect, survey and measure such building or structure, after giving to such owner a notice in writing of their intention, not less than twenty-four hours previous to such entry and inspection.

Returns of the measurements to be furnished.

66E. Whoever refuses or fails to furnish any such return for the space of one week from the day on which he shall have been required so to do, or knowingly makes a false or incorrect return,

Penalty for furnishing false return.

and whoever hinders, obstructs or prevents the Corporation of Calcutta, or any person appointed by the Corporation of Calcutta as aforesaid, from entering, inspecting, surveying or measuring any such building or structure,

shall be liable to a fine not exceeding Rs. 200 for every such offence.

66F. (1) Before valuing any such building or structure in accordance with the provisions of section 66B, the Corporation of Calcutta shall give notice to the Commissioners and the owner that, on or after a date not less than fifteen days from the receipt of such notice by the Commissioners and the owner, such valuation will be made.

Notice before valuing to be given to the Commissioners and owner.

(2) If the valuation so made exceeds the previous valuation, the Corporation of Calcutta shall include in the special notice provided for in section 66K(3) full details of the amount of such valuation.

66G. If the owner of any building or structure is dissatisfied with a valuation made under the provisions of section 66A to section 66F (both inclusive), he shall, within fifteen days after the receipt of the special notice referred to in sections 66F and 66K, deliver at the office of the Corporation of Calcutta a notice in writing stating the grounds of his objection.

Objections how made by owner.

66H. (1) All such objections shall be entered in a register to be maintained for the purpose ; and, on receipt of any objection, notice shall be given to the objector of a day and place when his objection will be investigated.

Hearing of objection.

(2) On the day and place notified, the Chairman or Vice-Chairman of the Corporation shall hear the objection, and such hearing shall be

¹See foot-note 1 on page 50, ante.

(Chapter IV.— *Of the General Powers of the Commission.—*
 Part IV.— *Of the Assessment of the Property of the*
Commissioners.—Sections 66-I—66K)

in the presence of the objector, if he shall appear ; the Chairman or Vice-Chairman of the Corporation may also for reasonable cause at any time adjourn the investigation.

(3) The order passed on such objection shall be recorded in the register of objections, together with the date of such order.

Appeal
from
decision of
Chairman.

¹66-I. (1) The owner of such building or structure if dissatisfied with the order passed on his objection, may appeal to the Court of Small Causes having jurisdiction in the place where such building or structure is situated. Such appeal shall be presented to the Court of Small Causes within thirty days from the date of the order passed under section 66H, and shall be accompanied with an extract from the register of objections containing the order objected to.

(2) No appeal shall be admitted unless an objection has first been taken in accordance with the provisions of section 66G.

Valuation
and ad-
judication
to be final.

¹66-J. The valuation by the Corporation of Calcutta, when no appeal therefrom is made, as hereinbefore provided, and the adjudication of any appeal under the last preceding section, when such appeal is made, shall be final and binding.

Assess-
ment,
assess-
ment-book,
and special
notice.

¹66-K. (1) The valuation so made by the Corporation of Calcutta, subject to such alteration as may, from time to time thereafter, be duly made, shall be entered in a book, to be called the assessment-book, and to be kept at the office of the Corporation, and in the same form, as far as may be, as the rent register of the Commissioners.

(2) A copy of such book and of all entries therein, as modified from time to time, shall be supplied to the Commissioners, and shall be open to inspection between the hours of 11 a. m. and 5 p. m. at the head office of the Commissioners.

(3) A special notice, including an extract from the assessment-book showing the valuation of each building or structure, and stating the time within which an objection shall be lodged, shall, on the completion of the valuation under sections 66A to 66F (both inclusive), be given by the Corporation to the owner of such building or structure.

(4) The assessment calculated on the said valuation shall, subject to such alterations as aforesaid, be deemed to be the amount payable during the whole period for which the valuation is in force ; and this period shall be calculated from the commencement of the quarter next

¹See foot-note 1 on page 50, ante.

of 1890.]

*(Chapter IV.—Of the General Powers of the Commission.—
Part IV.—Of the Assessment of the Property of the
Commissioners.—Sections 66L, 66M.)*

succeeding that in which any alterations as aforesaid shall have been made ; and until such date, the old valuation shall continue in force, notwithstanding that the period for which it was made may have expired.

66L. (1) The Corporation of Calcutta may, after giving notice to the Commissioners and the owner of such building or structure in the manner provided in section 66D, at any time amend the assessment-book, by inserting therein—

Amend-
ment of
assess-
ment-book.

- (a) the name of any person whose name ought to be so inserted ; or
- (b) the description of any building or structure hereinbefore mentioned liable to any such rate ; or
- (c) the valuation, when such building or structure has not already been valued.

(2) The Corporation of Calcutta may, without notice, strike out the name of any person or the description of any building or structure not liable to the rate, or may reduce the amount of the valuation.

(3) All such changes shall be notified to the Commissioners, and to the owner of the building or structure in the manner provided in section 66K ; and the provisions of sections 66G, 66H, 66I, and 66J shall, so far as may be practicable, apply.

66M. (1) The Commissioners shall, during the first month of each succeeding quarter, pay to the Corporation of Calcutta the consolidated rate so assessed for the previous quarter for such portion of the previous quarter as the Commissioners' land was occupied by each tenant and the liability for rent incurred :

Payment of
rate by the
Commis-
sioners to
Corpora-
tion.

Provided that, unless notice of the termination of tenancy during a quarter, has been given by the Commissioners to the Corporation of Calcutta within one month of such termination, the Commissioners shall be liable for the whole consolidated rate assessed in respect of such quarter.

(2) Before paying the consolidated rate assessed to the Corporation of Calcutta, the Commissioners shall deduct and retain a sum equal to one-eighth of such rate:

(3) For the recovery of any such sum, the Corporation of Calcutta shall have all such and the same remedies, powers, rights and authorities as they possess under the Calcutta Municipal Consolidation Act, 1888.²

Ben. Act II
of 1888.

¹See foot-note 1 on page 50, ante.

²See foot-note 1 on page 48, ante.

(Chapter IV.— Of the General Powers of the Commission.—
Part IV.— Of the Assessment of the Property of the
Commissioners.—Sections 66N, 67 & 68.)

Rates re-
coverable
from owner
of building
or structure
and tenants
of land.

66N. (1) The Commissioners may recover from the owner of any such building or structure the whole of the rate so assessed, as hereinbefore stated, by the Corporation of Calcutta, in respect of any such building or structure.

(2) They may further recover from the tenants of the land assessed under sections 59 to 65 (both inclusive) an amount not exceeding one-half of the whole of the consolidated rate so assessed by the Corporation of Calcutta, in respect of such portions of the land as shall have been leased to such tenants.

(3) All sums so due shall be recovered and collected by the Commissioners, together with the rent payable to them by such tenants or owners in respect of such land or any such building or structure.

(4) For the purpose of recovering such sums, the Commissioners shall have the same remedies, powers, rights and authorities as if such rates were rent recoverable by them.

Power of
Calcutta
Corporation
to declare
road or
thorough-
fare vested
in Commis-
sioners a
public
street.

67. (1) The Corporation of Calcutta, on being satisfied that any road or thoroughfare vested in the Commissioners is not less than forty feet in width, and has been duly levelled, paved, metalled, flagged, channelled and sewered, shall, at the request of the Commissioners declare such road or thoroughfare to be a "public street" as defined by the Calcutta Municipal Consolidation Act, 1888²; and thereupon the same shall become a public street and be from time to time lighted, cleansed, watered and repaired by the Corporation of Calcutta.

Ben. Act II
of 1888.

Corporation
not to dis-
continue or
stop up
road or
thorough-
fare with-
out consent
of Commis-
sioners.

(2) It shall not be competent to the Corporation of Calcutta to discontinue or stop up any such road or thoroughfare, without the previous consent of the Commissioners; and the land occupied by any road or thoroughfare so discontinued or stopped shall vest in the Commissioners, and not in the Corporation of Calcutta.

Calcutta
Corporation
may be
required to
light,
cleanse and
water roads.

68. The Commissioners may, without parting with the control of any road or thoroughfare which is open to the public or of the road of any dock, wharf or jetty, call upon the Corporation of Calcutta, to light, cleanse, and, if necessary, water such road; and thenceforward the Corporation of Calcutta shall light, cleanse, and, if necessary, water such road:

Provided that such road shall remain vested in the Commissioners, and shall not be stopped or discontinued, or temporarily closed, except by the Commissioners or with their consent.

¹See foot-note 1 on page 50, *ante*.

²See foot-note 1 on page 48, *ante*.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part IV.—Of the Assessment of the Property of the Commissioners.—Section 68A.)

¹68A. (1) The Provisions of this Part, except sections 67 and 68, shall, notwithstanding anything contained in any other law, be applicable ²[*mutatis mutandis*] for the assessment of the properties of the Commissioners within the municipality of Howrah or within any other municipality in the neighbourhood of Calcutta or within any part thereof to which section 127 of the Calcutta Municipal Act, 1923³, has been or may be extended under section 540 of the said Act⁴ [or to which section 168 of the Calcutta Municipal Act, 1951, has been or may be extended under section 589 of that Act.]

Effect when Calcutta Municipal Act, 1923, is extended outside Calcutta.

Ben. Act III of 1923.

West Ben. Act XXXIII of 1951.

(2) In each municipality or part thereof referred to in subsection (1) :—

- (a) for the word "Calcutta" after the words "the municipal limits of" and for the words and figures "Calcutta as defined by the Calcutta Municipal Consolidation Act, 1888"⁵ in section 59 and for the word "Calcutta" after the word "within" in section 65 the name of such municipality shall be read ;
- (b) for the words "the Corporation of Calcutta" in sections 60, 61, 62, 65, 66, 66B, 66C, 66D, 66E, 66F, 66G, 66J, 66K, 66L, 66M, and 66N and for the words "the Corporation" in section 66K, the words "the Commissioners of the local municipality" shall be read ;
- (c) for the words "the Chairman or Vice-Chairman of the Corporation of Calcutta" in section 63 and the words "the Chairman or Vice-Chairman of the Corporation" in section 66H the words "the authority appointed in this behalf by the Commissioners of the local municipality" shall be read ; and
- (d) for the words "the Court of Small Causes" in section 66I the words "the Court of the Subordinate Judge" shall be read.

Ben. Act II of 1888.

¹Section 68A was inserted by s. 2 of the Calcutta Port (Amendment) Act, 1933 (Ben. Act III of 1933).

²Inserted by s. 4 (i) of the Calcutta Port (Amendment) Act, 1954 (West Ben. Act XXV of 1954).

³Ben. Act III of 1923 has been repealed and re-enacted by the Calcutta Municipal Act, 1951 (West Ben. Act XXXIII of 1951) which was further repealed and re-enacted by the Calcutta Municipal Corporation Act, 1980 (West Ben. Act, LIX of 1980.) and this reference should be construed as a reference to the corresponding provisions of the latter Act.

⁴Added by s. 4 (ii) of the Calcutta Port (Amendment) Act, 1954 (West Ben. Act XXV of 1954).

⁵See foot-note 1 on page 48, *ante*.

(Chapter IV.—Of the General Powers of the Commission.—
Part IVA.—Disposal of Funds. — Section 68B.)

PART IVA.—Disposal of Funds.

Application
of moneys
belonging
to the
Commis-
sioners.

68B. Subject to the provisions of section 36 of the Indian Ports Act, 1908, the moneys belonging to the Commissioners shall be applied by them in payment of the following charges, namely :—

XV of
1908.

- (1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the Commissioners and to the employees appointed under this Act ;
- (2) the contributions, if any, duly authorised to be made—
 - (a) to any provident fund established by the said employees, or
 - (b) to such provident fund, if any, as may be established under section 30A, or
 - (c) to such welfare fund or loan fund, if any, as may be established by the Commissioners for the benefit of such employees ;
- (3) if any such provident fund or welfare fund or loan fund be established by the Commissioners, the cost and expenses, if any, which may be incurred by the Commissioners in the conduct and administration thereof ;
- (4) the cost of repairs and maintenance of the property vested in the Commissioners and all charges upon the same and all working expenses ;
- (5) the interest due on any money that may have been raised by the Commissioners under section 18 or section 22 ;
- (6) the cost, or such portion of the cost of any new work, plant, vessel or appliance which the Commissioners may determine to charge to revenue ;
- (7) the payment of pensions, gratuities and compassionate allowances, granted by the Commissioners to their employees injured, or to surviving relatives of their employees killed, in the execution of their duty ;
- (8) the payment under clause (ii) of section 30A of bonuses to employees appointed under this Act and to the widows or dependent children or other surviving dependent relatives of such of them as may die while still in the service of the Commissioners ;

¹Part IVA (section 68B) was inserted by s. 104 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

of 1890.]

(Chapter IV.— Of the General Powers of the Commission.—
Part V.— Of the Estimates of Income, Expenditure and Audit.—
Sections 69—71.)

(9) any other charge for the purposes of this Act for which the Commissioners may be legally liable :

Provided that the Commissioners shall have power and shall be deemed always to have had power at any time to apply, with the sanction of the Central Government, the moneys belonging to them in payment of any other charge not included in the foregoing clauses of this section.

PART V.— Of the Estimates of Income, Expenditure and Audit.

69. (1) The ¹[Chairman] shall, at a special meeting to be held in the month of February in each year, lay before the Commissioners an estimate of the income and of the expenditure of the Commissioners for the year commencing on the first day of April then next ensuing, in such detail and form as the ²[Central Government] shall, from time to time, direct.

Estimate of income and expenditure to be laid before Commissioners at special meeting.

(2) Such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each Commissioner at least ten clear days prior to the meeting before which the estimate is to be laid.

Estimate when to be so laid.

70. The Commissioners in meeting shall consider the estimate as submitted to them, and shall sanction the same either unaltered or subject to such alterations as they shall think fit.

Commissioners in meeting to consider and sanction estimate.

71. ³(1) The estimate as sanctioned by the Commissioners shall, not later than the first day of March next following, be submitted to the ²[Central Government], who may, at any time prior to the first day of April next following, either disallow or modify such estimate, or any portion thereof, and return the same for amendment.

Power of Central Government to disallow estimate and return it for amendment.

(2) The Commissioners shall, if the estimate is so returned, forthwith proceed to amend the same ; and shall re-submit the estimate so amended to the ²[Central Government].

Estimate to be re-submitted to Central Government after amendment.

¹This word was substituted for the word "Vice-Chairman" by s. 6 of the Calcutta Port (Amendment) Act, 1920 (Ben. Act VII of 1920).

²See foot-note 2 on page 12, ante.

³Sub-section (1) was substituted for the original sub-section by s. 6 of the Calcutta Port (Amendment) Act, 1923 (Ben. Act VI of 1923).

(Chapter IV.—Of the General Powers of the Commission.—
Part V.—Of the Estimates of Income, Expenditure and Audit.—
Sections 72, 72A, & 73.)

Commissioners may cause supplementary estimate to be prepared.

72. (1) The Commissioners may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them.

Supplementary estimate to be submitted to Central Government.

(2) Every such supplementary estimate shall be considered and sanctioned by the Commissioners in meeting and submitted to the ¹[Central Government] in the same manner as if it were an original annual estimate.

Excess expenditure by Commissioner.

²72A. The Commissioners in meeting shall be at liberty, in any year, to expend, in addition to the sums sanctioned by the estimate for that year as approved by the ¹[Central Government]—

(a) any sum or sums chargeable to revenue, the expenditure of which shall in their opinion be necessary and which could not reasonably have been anticipated at the time of the preparation of the estimate, if and when such sums are covered by their revenue earnings received up to the time of such expenditure ;

(b) any sum or sums on any object not included in or estimated for in the estimate, if and when such sums can be met from ascertained savings on the estimate as a whole :

Provided that in pursuance of the provisions of this clause—

(i) not more than fifty thousand rupees shall be expended on any one object, and

(ii) without the sanction of the ¹[Central Government] not more than one lakh and fifty thousand rupees shall be expended in any one year,

the Commissioners shall submit annually to the ¹[Central Government] a statement of all such expenditure.

Adherence to estimate.

³73. Subject to the provisions of section 72A, no sum exceeding twenty thousand rupees shall, except in cases of pressing emergency, be expended by, or on behalf of, the Commissioners unless such sum is included in an estimate at the time in force which has been finally approved by the ¹[Central Government].

¹See foot-note 2 on page 12, *ante*.

²Section 72A was inserted by s. 7 of the Calcutta Port (Amendment) Act, 1923 (Ben. Act VI of 1923).

³Section 73 was substituted for the former section by s. 8, *ibid*.

of 1890.]

(Chapter IV.— Of the General Powers of the Commission.—
Part V.— Of the Estimates of Income, Expenditure and Audit.—
Sections 74, 75, 75A & 75B.)

74. If any sum exceeding ¹[twenty thousand rupees] in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the ²[Chairman] to the ³[Central Government] together with an explanation of the way in which it is proposed by the Commissioners to cover such extra expenditure.

Excess expenditure to be reported to Central Government.

75. No ³[employee], as defined in section 30, may be maintained by the Commissioners, unless his salary has been provided in an estimate at the time in force.

Commissioners not to maintain employee without authority.

⁵75A. (1) No expenditure shall be charged by the Commissioners to capital without the previous sanction of the Central Government.

Capital expenditure.

(2) Nothing in sub-section (1) shall require further sanction of the Central Government in the case where the actual expenditure incurred as a charge to capital exceeds the expenditure sanctioned in this behalf by the Central Government unless the excess is more than ten *per cent.* of the expenditure so sanctioned.

⁵75B. (1) Subject to such conditions as may be specified by the Central Government, where the Commissioners are of opinion that any amount due to, or any loss, whether of money or of property, incurred by the Commissioners is irrecoverable, the Commissioners may, with the previous approval of the Central Government, sanction the writing off finally of the said amount or loss :

Writing off of losses.

Provided that no such approval of the Central Government shall be necessary where such irrecoverable amount or loss does not exceed, in any individual case, two thousand and five hundred rupees or in the aggregate in any one year, fifty thousand rupees.

(2) Notwithstanding anything contained in sub-section (1), where the Chairman is of opinion that any amount due to, or any loss, whether of money or of property, incurred by the Commissioners is irrecoverable, the Chairman may sanction the writing off finally of such amount or loss, provided that such amount or loss does not exceed, in any

¹These words were substituted for the words "five thousand rupees" by s. 9 of the Calcutta Port (Amendment) Act, 1923 (Ben. Act VI of 1923).

²This word was substituted for the word "Vice-Chairman" by s. 6 of the Calcutta Port (Amendment) Act, 1920 (Ben. Act VII of 1920).

³See foot-note 2 on page 12, *ante*.

⁴See foot-note 2 on page 34, *ante*.

⁵Sections 75A and 75B were inserted by s. 105 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

(Chapter IV.—Of the General Powers of the Commission.—
Part V.—Of the Estimates of Income, Expenditure and Audit.—
Sections 76, 76A, 77 & 78.)

individual case five hundred rupees or, in the aggregate in any one year, ten thousand rupees ; and in every such case, the Chairman shall make a report to the Commissioners giving reasons for such sanction.

Audit and
examina-
tion of
accounts.

¹76. (1) The accounts of the receipts and expenditure under this Act shall once in every year be laid before the Central Government and shall be audited and examined by the Comptroller and Auditor-General of India at such times and in such manner as may be determined by him.

(2) Within fourteen days after the audit and examination shall have been completed, the auditors shall report upon the accounts audited and examined, and shall forward copies of such report to the Central Government and to the Commissioners in meeting, and the Commissioners in meeting shall on receipt of such report cause the same to be deposited in the office of the Commissioners and to be published, together with an abstract of the accounts, in the *Official Gazette*.

Commis-
sioners to
remedy
defects and
irregulari-
ties pointed
out in the
audit report
and Central
Government
to pass final
orders.

²76A. (1) The Commissioners in meeting shall forthwith take into consideration any defects or irregularities that may be pointed out by the auditors in their report and shall pass such orders thereon as the Commissioners in meeting may think fit and shall also send a report of the action taken by the Commissioners to the Central Government.

(2) If there is a difference of opinion between the Commissioners and the auditors on any point included in the audit report and the Commissioners in meeting feel unable to accept the recommendations, if any, made by the auditors on such point, the matter shall forthwith be referred to the Central Government who shall pass final orders thereon and the Commissioners shall be bound to give effect to such orders.

77. [Central Government to appoint auditors.—Repealed by s. 2 and the First Sch. of the Repealing and Amending Act, 1960 (58 of 1960)].

Auditors
may require
production
of books,
etc., for
audit of
accounts.

78. (1) For the purposes of any audit and examination of accounts under this Act, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary ;

¹This section was substituted for the original section by the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951), s. 106.

²This section was inserted by s. 107, *ibid*.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part V.—Of the Estimates of Income, Expenditure and Audit.— Sections 79, 80 & 80A.— Part VI.—Of Landing-places and Bathing-ghats.—Section 81.)

and may require any persons holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination, or adjournment thereof and to make and sign a declaration with respect to the same.

(2) If any such person neglect or refuse so to do, or produce any such books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign such declaration, he shall be liable for every neglect or refusal to a penalty not exceeding one hundred rupees.

Penalty.

79. ¹[The Comptroller and Auditor-General of India], shall in respect of each audit, be paid by the Commissioners such remuneration as the ²[Central Government] shall, from time to time, determine.

Remuneration to Comptroller and Auditor-General of India.

80. A copy of the accounts to be audited and examined shall be deposited in the office of the Commissioners, and thereat be open during office hours to the inspection of any person on payment of a fee of one rupee on each occasion of inspection, for seven days before the audit and examination ; and all such persons shall be at liberty to take copies of, or extracts from, the same without further payment.

Accounts to be kept in office of Commissioners and to be open for inspection.

³80A. (1) The Commissioners shall annually, or oftener, if directed by the Central Government so to do, submit statements of their receipts and disbursements to the Central Government in such form and at such time as that Government may direct.

Submission of accounts to the Central Government.

(2) A copy of all such statements shall be open to the inspection of the public at the office of the Commissioners during office hours on payment of such fee for each inspection as may from time to time be fixed by the Commissioners in meeting.

PART VI.— Of Landing-places and Bathing-ghats.

81. The Commissioners in meeting shall provide a sufficient number of public landing-places, from and upon which the public shall be permitted to embark and to land free of charge.

Commissioners in meeting to provide public landing-places.

¹These words were substituted for the words "All auditors not being a public department, acting under this Act" by s. 108 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²See foot-note 2 on page 12, ante.

³This section was inserted by s. 109 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

(Chapter IV.—Of the General Powers of the Commission. — Part VI.—Of Landing-places and Bathing-ghats—Section 82.— Part VII.—Of the erection of Wharves, Quays, Stages, Jetties, Piers or Moorings.—Sections 83—85.)

Powers with respect to bathing-ghats and landing-places.

82. It shall be lawful for the Commissioners in meeting if they consider it necessary for the purposes of this Act, to occupy or remove any bathing-ghat or landing-place within the Port ; and thereafter to prohibit the public from resorting to or using the same :

Provided that the Commissioners shall reserve, set out, make and provide for the use of the public, such sufficient bathing-ghats within the Port as the ¹[Central Government] may direct.

PART VII.—Of the erection of Wharves, Quays, Stages, Jetties, Piers or Moorings.

Wharves etc., not to be erected by private persons without assent of Central Government.

83. It shall not be lawful for any person or persons, save the Commissioners, to make, erect or fix below high-water-mark within the Port any wharf, quay, stage, jetty, pier, erection or mooring, unless the assent of the ¹[Central Government] shall have been first obtained.

Penalty for unlawfully erecting wharves, etc.

84. Any matter or thing which may be so made, erected or fixed may be removed by the Commissioners ;

and the person who shall have so made, erected or fixed any such matter or thing shall be liable on conviction to a fine which may extend to one hundred rupees and to a further fine which may extend to one thousand rupees for every day during which such matter or thing shall have been permitted to remain so made, erected or fixed after notice to remove the same shall have been given to him ;

and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter or thing :

Provided that this section shall not apply to moorings laid down or to be laid down by the Conservator of the Port.

Power to remove wharf etc., if erected without limit of Port.

85. In case any wharf, quay, stage, jetty, pier, erection or mooring may have been, or shall hereafter be, made, erected or fixed below high-water-mark without the limits for the time being of the Port, and thereafter the limits of the Port shall be extended so as to include the place on which such wharf, quay, stage, jetty, pier, erection or mooring shall have been made, erected or fixed, it shall be lawful for the Commissioners, with the sanction of the ¹[Central Government] in writing, to remove, fill up or destroy such wharf, quay, stage, jetty, pier, erection or mooring :

1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part VII.—Of the erection of Wharves, Quays, Stages, Jetties, Piers or Moorings.—Sections 86—89.)

Provided that any person who may have lawfully made, erected or fixed such wharf, quay, stage, jetty, pier, erection or mooring or who may have acquired a prescriptive right thereto by possession of sixty years or upwards his representatives or assigns shall be entitled to institute a civil suit for the award of compensation to him for the injury caused by the removal, filling up, or destruction hereinbefore mentioned.

86. Whenever any wharves, quays, stages, jetties, piers, erections or moorings have, under the last preceding section, been removed, filled up or destroyed, the Commissioners shall make or provide for the use of the public such sufficient and convenient wharves, quays, stages, jetties, piers, erections or moorings, in the place of those that may be removed, filled up or destroyed, as the ¹[Central Government] may direct.

Commissioners to provide wharves, etc., for use of public.

87. When the ¹[Central Government] shall, under the provisions of any Act for the regulation of duties of customs, appoint any wharf, quay, stage, jetty, or pier erected or acquired under this Act for the use of sea-going vessels, to be a wharf for the landing of goods within the meaning of such enactment,

Commissioners to provide wharves, etc., for use of Customs Officers.

the Commissioners shall set apart, maintain and secure on such wharf, quay, stage, jetty or pier, such portion thereof, or place therein, or adjoining thereto, for the use of the officers of Customs, as the ¹[Central Government] shall in that behalf approve or appoint.

88. Notwithstanding that any wharf, quay, stage, jetty or pier, or portion thereof, shall, under the provisions of the last preceding section, have been set apart for the use of the officers of Customs, all tolls, dues, rates, rents or charges payable in respect thereof, or for the use thereof, or for the storage of goods thereupon shall be paid and payable to the Commissioners, or to such person or persons as they may appoint to receive the same.

Tolls, etc., in respect of wharves, etc., set apart for Customs Officers to be paid to Commissioners.

89. (1) In case any damage or mischief shall be done to any dock, wharf, quay, stage, jetty, pier or works constructed or acquired by the Commissioners under the provisions of this Act, by any vessel, through the negligence of any person having the guidance or command thereof, or of any of the mariners or persons employed therein,

Magistrate to summon masters of vessels with respect to damage caused to wharves, etc.

it shall be lawful for any Magistrate, having jurisdiction in the place where such damage or mischief is alleged to have been committed, on the application of the Commissioners, to issue a summons to the

¹See foot-note 2 on page 12. *ante*.

(Chapter IV.—Of the General Powers of the Commission.—Part
VII.—Of the Landing and Shipment of Goods.—Section 90.)

master of, or agent for, such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief :

Provided that if, at the time of the damage or mischief the vessel was under the orders of a duly authorised officer belonging to the Pilot Service or the Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section.

Magistrate to issue warrant of distress if damage to wharves, etc., caused by negligence.

(2) If at the time appointed in the summons, and whether the person summoned shall appear or not, the Magistrate finds that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees,

it shall be lawful for the Magistrate to issue his warrant of distress under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of, and attending the execution of, the distress and the pecuniary amount of damage as aforesaid ;

and such amount shall be paid to the Commissioners out of the proceeds of distress.

PART VIII.—Of the Landing and Shipment of Goods.

Commissioners to provide for landing, etc., goods from sea-going vessels.

90. ¹[(1)] The Commissioners shall ² provide and keep and maintain sufficient servants and apparatus for the expeditious and convenient landing and shipment of goods from and upon all sea-going vessels brought to the docks, wharves, quays, stages, jetties or piers erected by them ;

and shall, by their servants ³[or agents], land and ship all goods from and upon any such vessels so coming to such dock, wharf, quay, stage, jetty or pier, unless where there is a legal excuse for refusing to land or ship such goods, or such vessel is by reason of the breach or non-observance of any law or regulation, not entitled to have her goods shipped or discharged :

⁴Provided that, in the case of cargoes of petroleum, it shall be lawful for the Commissioners not only to land the petroleum from all sea-

¹Section 90 was re-numbered as sub-section (1) of that section by s. 110 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²The words "when thereunto required by the Local Government" were repealed by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

³These words were inserted by s. 5 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act IV of 1895).

⁴This proviso was inserted by s. 5, *ibid.*

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part VIII.—Of the Landing and Shipment of Goods.—Sections 91, 92.)

going vessels, but also by their servants or agents to put the petroleum out of the hold and overside such vessels :

Provided ¹[further] that the Commissioners shall not be bound to land, ship or move any single article or package exceeding thirty tons of twenty hundredweight in weight except at such special charge as may be agreed on in respect of such article or package :

²Provided also that it shall be lawful for the Commissioners in meeting in special cases to permit goods to be landed from, or shipped upon, any such sea-going vessel by persons other than the employees or agents of the Commissioners.

³(2) The Commissioners may also maintain and use lighters for the purpose of landing and shipment of goods between sea-going vessels at the port and the docks, wharves, quays, stages, jetties or piers erected by them.

91. (1) Whenever any goods shall be landed by the Commissioners from any vessel under the powers by this Act conferred on them, they shall if thereunto required, give to the person in charge of such vessel a receipt in the form or to the effect prescribed in the ⁴[Second] Schedule ; and may, in any such receipt, include all goods landed from such vessel during one day.

Commissioners to grant receipts for goods landed by them.

(2) No person to whom such receipt shall have been so given, nor the master nor owner of the vessel from which the goods in respect of which such receipt shall be given may have been landed, shall be liable for any loss or damage to such goods which may occur after they shall have been so landed.

Liability for loss, etc., of goods to cease when once landed.

92. When any dock, wharf, quay, stage, jetty or pier, erected under the provisions of this Act, shall have been made and completed, together with sufficient warehouses, sheds, cranes, and moorings for landing and shipment, or for landing or for shipment of goods from and upon sea-going vessels,

Commissioners to declare when docks, etc., are ready for landing goods from sea-going vessels.

¹This word was inserted by s. 5 of the Calcutta Port (Amendment No. 1) Act, 1995 (Ben. Act IV of 1895).

²This proviso was inserted by s. 110 (a) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

³This sub-section (2) was inserted by s. 110 (b), *ibid.*

⁴This word was substituted for the word "Third" by s. 7 of the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

(Chapter IV.—Of the General Powers of the Commission.—Part VIII.—Of the Landing and Shipment of Goods.—Sections 93, 94.)

it shall be lawful for the Commissioners * * * by a notification published in three consecutive numbers of the ²[*Official Gazette*] to declare that such dock, wharf, quay, stage, jetty or pier is ready for receiving, landing and shipment, or for landing or for shipment of goods from and upon sea-going vessels.

Commissioners may order sea-going vessels to load or unload at docks, etc., when accommodation available.

93. From and after such notification and publication, it shall be lawful for the Commissioners * * * * from time to time, when there shall be room at such dock, wharf, quay, stage, jetty or pier, to order to come alongside of such dock, wharf, quay, stage, jetty or pier for the purpose of being laden or unladen by the Commissioners, any sea-going vessel which shall not have commenced to discharge goods, or which, being about to take in goods, shall not have commenced to take in goods :

⁴Provided that if the Commissioners are not the Conservator of the Port, they shall not themselves make the order as aforesaid but shall require the Conservator of the Port, or other person exercising the rights, powers and authorities of the Conservator of the Port, to make such order.

Penalty for landing or shipping goods in contravention of order.

94. If, after such order of the ⁵[Commissioners or as the case may be, the Conservator of the Port] or other person aforesaid the owner or master of any such ⁶[vessel] shall either take in or discharge goods, save and except at such dock, wharf, quay, stage, jetty or pier to which such vessel shall have been so ordered,

the owner thereof, or in case he shall not be in Calcutta, the master thereof, shall be liable to a penalty of one hundred rupees for each day that he shall land or ship, or attempt to land or ship, any goods in contravention of such order.

¹The words "With the sanction of the Local Government" were repealed by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

²See foot-note 3 on page 12, *ante*.

³The words "to require the Conservator of the Port or other persons exercising the rights, powers and authorities of the Conservator of the Port" were omitted by s. 111 (a) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁴This proviso was added by s. 111(b), *ibid*.

⁵These words were substituted for the words "Conservator of the Port" by s. 112 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁶This word was substituted for the word "vessels" by s. 3 and Sch. II of the Amending Act, 1903 (1 of 1903).

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part VIII.—Of the Landing and Shipment of Goods.—Sections 95—97.)

95. Without the express sanction of the Commissioners in meeting and except in accordance with the conditions which the Commissioners in meeting may by resolution prescribe, no goods shall be landed or shipped from or upon any sea-going vessel within the port save at the docks, wharves, quays, stages, jetties or piers erected under this Act.

Power to direct goods not to be landed from or shipped upon sea-going vessels save at docks, etc., erected by Commissioners.

96. Whoever shall, after such order has been so published as aforesaid, land or ship, or attempt to land or ship, any goods in contravention of such order, shall be liable to a fine not exceeding two hundred rupees for every day that he shall so land or ship any goods in contravention of the said order :

Penalty for landing or shipping goods after publication of order.

Provided that, notwithstanding anything in this or in sections 92, 93 and 94 contained, it shall be lawful for the ²[Central Government] by notification in the ³[Official Gazette], from time to time, if it shall so think fit, to declare that certain specified vessels or classes of vessels shall be permitted to discharge or ship goods or that certain specified goods or classes of goods shall be permitted to be landed or shipped elsewhere, and at such part of the Port of Calcutta and for such time and on such conditions as it may think fit.

97. (1) When any dock, wharf, quay, stage, jetty or pier for receiving, landing or shipment of goods from vessels (not being sea-going vessels) shall have been made and completed with all proper appliances in that behalf,

Commissioners to declare when docks, etc., are ready for landing goods from inland vessels.

it shall be lawful for the Commissioners in meeting ⁴* * * *
* * * by an order published in three consecutive numbers of the ³[Official Gazette], to declare that such dock, wharf, quay, stage, jetty or pier is ready for receiving, landing or shipment of goods from vessels (not being sea-going vessels),

¹The section was substituted for the original section by s. 113 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

²See foot-note 2 on page 12, ante.

³See foot-note 3 on page 12, ante.

⁴The words "With the sanction of the Local Government" were repealed by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

(Chapter IV.—Of the General Powers of the Commission.—Part VIII.—Of the Landing and Shipment of Goods.—Sections 98, 99.)

and in the same way ¹[with the sanction of the ²(Central Government)] to order that, within certain prescribed limits to be therein specified in that behalf, it shall not be lawful, without the express sanction of the Commissioner, to land or ship any goods out of, or into, any vessel (not being a sea-going vessel) of any class specified in such order, except at such dock, wharf, quay, stage, jetty or pier.

(2) And, by an order in like manner published, to alter, vary or revoke any such order.

Suit may be instituted for award of compensation.

98. Whenever any order made and published under sections 95 and 97 shall have the effect of rendering it unlawful to land or ship any goods out of, or into, any vessel at any wharf, quay, stage, jetty or pier lawfully made, erected or fixed by any person for the convenience of private traffic, or to which a prescriptive right may have been acquired by possession of sixty years or upwards,

such person, his representatives or assigns, shall be entitled to institute a civil suit for the award of compensation to him for the injury caused by the order hereinbefore mentioned :

Provided that, in awarding such compensation, the Court shall not take into consideration any tolls, dues, rates or charges which the aforesaid person claiming compensation shall be liable to pay for using the wharf, quay, stage, jetty or pier provided by the Commissioners for public use :

Provided also that it shall be lawful for the Commissioner, in lieu of closing any wharf, quay, stage, jetty or pier under either of the said sections, to allow the continued use thereof on payment of such scale of tolls, dues, rates and charges as may be agreed upon between the owners thereof and the Commissioners.

Goods not to be landed from inland vessels save at docks, etc.

99. (1) After the publication of the order mentioned in section 97 of this Act, it shall not be lawful for any vessel of such class to land or ship any goods at any place within the limits so specified except at such dock, wharf, quay, stage, jetty or pier ; nor for any such vessel, while within such limits, to anchor, fasten or lie within fifty yards of the ordinary low-water-mark without the consent of the Commissioners.

Penalty for breach of provisions.

(2) Any person guilty of any breach of the provisions of this section shall be liable to a fine not exceeding fifty rupees for every such breach.

¹These words were substituted for the words "and with the same sanction" by the Bengal Decentralization Act, 1915 (Ben. Act V of 1915).

²See foot-note 2 on page 12, ante.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part VIII.—Of the Landing and Shipment of Goods.—Sections 100—102.—Part IX.—Of Levying Tolls and Rates.—Sections 103—104.)

100. If, after the publication of the order mentioned in section 97 of this Act, any such vessels shall, within such limits, so anchor, fasten or lie, it shall be lawful for the Commissioners to cause the same to be removed out of the said limits ; and it shall be the duty of the Conservator of the Port to aid and assist the Commissioners in so removing such vessel.

Power to remove vessels lying within fifty yards of low-water-mark.

101. The Commissioners may, by notice in writing, order the master, owner or agent of any vessel to remove such vessel from any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners.

Commissioners may require masters to remove vessels from docks, etc.

102. Unless such vessel shall be removed therefrom within thirty-six hours after service of such notice on the officer in charge of such vessel, or the master, owner or agent thereof,

Power to charge vessels for use of docks, etc., after service of notice for their removal.

it shall be lawful for the Commissioner to charge, in respect of such vessel for the use by such vessel of such dock, wharf, quay, stage, jetty or pier, such sum not exceeding five hundred rupees for each day of twenty-four hours, or portion of such day, after the expiry of such thirty-six hours, during which such vessel shall remain at such dock, wharf, quay, stage, jetty or pier as to the Commissioners shall seem fit.

PART IX.—Of Levying Tolls and Rates.

103. The Commissioners shall frame a scale of tolls, dues, rates and charges for the landing and shipment of goods from and into sea-going vessels at the docks, wharves, quays, stages, Jetties and piers belonging to the Commissioners, and for the use thereof by such vessels, and for the storing and keeping of any goods stored in any premises belonging to them, and for the removal of goods, and for the use of any moorings laid down or acquired by the Commissioners, and for the towage of vessels by the steam-vessels of the Commissioners in the Port.

Commissioners to frame scale of tolls etc., for landing goods from sea-going vessels.

104. The Commissioners shall also frame a scale of tolls, dues, rates and charges for the landing and shipment of goods into and out of any vessel (not being a sea-going vessel) ;

Commissioners to frame scale of tolls, etc., for landing goods into inland vessels.

1* * * * *

¹In section 104 the words "and also a scale of tolls for the use of the said docks, wharves, quays, stages, jetties and piers by any such vessel, in case the Commissioners shall permit the goods to be landed or shipped by other than their own officers and servants" were repealed by s. 6 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act IV of 1895).

(Chapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Sections 104A, 105, 105A & 106.)

Commissioners to frame scales of tolls for use of docks, etc., by vessels.

104A. (1) The Commissioners shall also frame scales of tolls for the use of their docks, wharves, quays, stages, jetties and piers by vessels, whether sea-going or not, leviable when the Commissioners permit goods to be landed or shipped by persons other than their own²[employees].

(2) The scales for sea-going vessels and vessels other than sea-going vessels may be either the same or different, as the Commissioners may think fit.

Commissioners to frame scale of charges for services in respect of vessel or goods, etc.

105. The Commissioners shall also frame a scale of charges for any services to be performed by the Commissioners or their²[employees] in respect of⁴[vessels or goods excepting the services in respect of vessels for which fees are chargeable under the Indian Ports Act, 1908], or for the use of any works or appliances to be provided by the Commissioners.

XV of 1908.

Charges for carrying passengers and their personal effects on Commissioners' vessels.

105A. The Commissioners shall also frame a scale of charges for the carrying of passengers and their personal effects on vessels belonging to or hired by the Commissioners.

Commissioners to frame scale of tolls, rates, charges and fees in respect of vessels plying within limits of port and in respect of persons thereon.

106. The Commissioners shall also frame a scale of tolls, "[rates, charges, and fees], annual or other, to be paid by the owners of^{7*} * vessels plying⁹[whether for hire or not, and] whether regularly or occasionally within, or partly within and partly without, the limits of the port⁹[in respect of such vessels and of persons whether in charge

¹Section 104A was inserted by s. 7 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act. IV of 1895).

²See foot-note 1 on page 34, *ante*.

³Section 105 was substituted for the original section by s. 4 of the Calcutta Port (Amendment No. II) Act, 1895 (Ben. Act VI of 1895).

⁴These words were substituted for the words "any vessel or goods" by s. 114 of the Port Trusts and Ports (Amendment) Act, 1951 (XXV of 1951).

⁵Section 105A was inserted by s. 5 of the Calcutta Port (Amendment) Act, 1905 (Ben. Act IV of 1905).

⁶These words were inserted by s. 8 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act IV of 1895).

⁷The word "any" was repealed, *ibid*.

⁸These words were substituted for the words "for hire" by s. 6 of the Calcutta Port (Amendment) Act, 1905 (Ben. Act IV of 1905).

⁹These words were inserted by s. 8 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act IV of 1895).

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Sections 107, 108.)

of, or on board, such vessels, and also in respect of the licensing, registration and regulation of such vessels and persons) :

XV of 1889.

Provided that no such tolls, ¹[rates, charges and fees] shall be chargeable in respect of vessels which are liable to pay port dues under the provisions of Schedule I of the Indian Ports Act, 1889.²

107. (1) Such scales of tolls, dues, rates and charges shall be adopted by the Commissioners in meeting, and shall be submitted to the ³[Central Government] ; and after receiving its approval shall be published by the Commissioners in the ⁴[Official Gazette], and may from time to time, subject to the like approval and publication, be in like manner altered.

Scale of tolls, etc., to be published after approval by Central Government.

⁵[(1a) In framing scales under the foregoing provisions, the Commissioners in meeting may prescribe a lower rate of charges in respect of cargo carried in a vessel from one Indian port to another.

Power to levy concessional rate of charges on coastal cargo.

Explanation.—For the purposes of this section, the expression, "Indian port" includes the ports of Diu, Daman, Marmagao, Panjim, Mahe, Karaikal and Pondicherry.]

(2) It shall also be competent to the ³[Central Government] at any time to cancel any of the scales framed under sections 103 to 106 (both inclusive), or to call upon the Commissioners to modify any portion of such scales ; and thereupon the Commissioners in meeting shall modify such scales accordingly.

Power of Central Government to cancel scale of tolls, etc.

108. ⁶[The Commissioners may from time to time] charge upon all ⁷[or any portion or description of] goods landed from or shipped into any ⁸[sea-going] vessel lying or being within the limits of the port ⁹[or of the port approaches], whether such goods shall or shall not be so

Power of Commissioners to charge additional general or differential tolls, etc., on all or any portion or description of goods, to provide for payment of debt.

¹These words were inserted by s. 8 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act IV of 1895).

²Act X of 1889 was repealed and re-enacted by the Indian Ports Act, 1908 (XV of 1908), and this reference should now be construed as a reference to the latter Act.

³See foot-note 2 on page 12, *ante*.

⁴See foot-note 3 on page 12, *ante*.

⁵Sub-section (1a) was inserted by s. 115 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁶These words were substituted for the original words by s. 8(1) of the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

⁷These words were inserted by s. 9 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act IV of 1895).

⁸This word was inserted, *ibid*.

⁹These words were inserted by s. 116 (a) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

(Chapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Sections 109, 109A.)

landed or shipped at any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners,

such ¹[general or differential] tolls, dues, rates and charges, in addition to, or other than, those prescribed by any scale of tolls, dues, rates and charges for the time being in force under the provisions of sections 103, ²[104A] ³[and] 107 ⁴* * ⁵[as the Commissioners may think fit and expedient] :

⁶Provided that the said goods may, for the purpose of this section, be classified by weight, measurement, number and value, and the tolls, dues, rates and charges leviable may be varied according as the goods are imported or exported goods ⁷[or, according as the goods are landed or shipped within the limits of the port or of the port approaches.]

109. Such ⁸[additional general or differential] tolls, dues, rates and charges shall be fixed and adopted in accordance with a resolution passed by the Commissioners at a meeting, and shall be submitted to the ⁹[Central Government] ; and if the same shall be approved by it, it shall be published in the ¹⁰[*Official Gazette*], and shall forthwith come into operation and remain in operation until altered or revoked by the Commissioners in meeting, with the sanction of the ¹¹[Central Government] ; and shall be leviable and recoverable in like manner as any other tolls, dues, rates and charges payable under this Act.

¹¹109A. The Commissioners in meeting may, in special cases, for reasons to be recorded in writing, remit the whole or any portion of the tolls, dues, rates or charges leviable according to any scale for the time being in force under section 107 or section 109.

¹These words were inserted by s. 9 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act IV of 1895).

²This reference to section 104A was inserted, *ibid.*

³This word was substituted for the word "to", *ibid.*

⁴The words "(both inclusive)" were repealed, *ibid.*

⁵These words were substituted for the words "as will, when added to the said income of the year, suffice as nearly as may be for the payment of the said sums in full" by s. 8(2) of the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

⁶This proviso was added by s. 9 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act IV of 1895).

⁷These words were added to the proviso by s. 116 (b) of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁸These words were inserted by s. 10 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act IV of 1895).

⁹See foot-note 2 on page 12, *ante*.

¹⁰See foot-note 3 on page 12, *ante*.

¹¹This section was inserted by s. 117 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

Mode of levy and recovery of additional general or differential tolls, etc.

Power of Commissioners to remit tolls, etc.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Sections 110—112.)

110. [Power of Local Government to charge tolls, etc., on neglect of Commissioners to do so.]—Rep. by s. 9 of the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

111. (1) For the amount of all tolls, dues, rates and charges duly leviable under this Act in respect of any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

Recovery of tolls in arrear.

(2) Toll, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods.

(3) Toll, dues, rates and charges in respect of goods to be removed from the premises of the Commissioners or to be shipped for export, shall be payable before the goods are removed or shipped.

(4) The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except for general average, for the ship-owners' lien for freight upon the said goods where such lien exists and has been preserved in the manner hereinafter provided, for primage, and for money payable to ¹[the Government] under any law for the time being in force :

Provided that nothing in this Act shall affect any power or authority vested in the Chief Officer of Customs under any law for the time being in force.

²112. (1) The responsibility of the Commissioners for the loss, destruction or deterioration of animals or goods, whether landed for import or received for export or for carriage by railway,

Responsibility of Commissioners for loss, destruction or deterioration of animals or goods.

during such time as the same remain in the possession or under the control of the Commissioners,

shall, subject to the other provisions of this Act, and, in the case of animals or goods received for carriage by railway, subject also to the provisions of the Indian Railways Act, 1890, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872, omitting the words "in the absence of any special contract" in section 152 of the last-mentioned Act.

IX of 1890.
IX of 1872.

(2) With the previous sanction of the ³[Central Government] and under such circumstances and conditions as the ³[Central Govern-

¹The words "the Crown" were originally substituted for the words "Her Majesty or the Secretary of State for India in Council" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph 4 (1) of the Adaptation of Laws Order, 1950.

²Section 112 was substituted for the original section by s. 2 of the Calcutta Port (Amendment) Act, 1898 (Ben. Act II of 1898).

³See foot-note 2 on page 12, ante.

(Chapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Sections 113, 114.)

ment] may prescribe, the Commissioners may enter into an agreement relating to animals or goods landed for import or received for export or for carriage by railway, which may impose upon the Commissioners a greater responsibility than that imposed by sub-section (1).

(3) Every such agreement must be in writing and must be signed by, or on behalf of, the Commissioners.

Commissioners to take charge of goods landed by them.

113. (1) The Commissioners shall, immediately upon the landing¹ [by them] of any goods, take charge thereof, and store such as are liable to suffer from exposure in any shed or warehouse belonging to the Commissioners.

Goods not stored in licensed warehouses to remain at risk and expense of owner if not removed within five days.

(2) If any owner, without any default on the part of the Commissioners, fail to remove any goods² [other than those stored in warehouses licensed under section 16 of the Sea Customs Act, 1878], from the premises of the Commissioners within³ [Five] clear working days from the time of landing, such goods shall remain on the premises at the sole risk and expense of the owner.

VIII of 1878.

Commissioners to give notice to consignee, etc., of cessation of liability.

114. (1) Whenever the owner of any goods² [other than those stored in warehouses licensed under section 16 of the Sea Customs Act, 1878,] fails to remove the same within the time specified in the last preceding section, the Commissioners shall give notice to the consignee or owner of such goods, if his address be known, by letter sent by post to such address or left thereat, that all liability which the Commissioners may have hitherto incurred in respect of such goods has ceased ;

Also to publish notice of expiry of such liability.

(2) and shall also publish in one or more daily newspapers notice of the expiry of such liability ; and shall specify therein the numbers, marks and descriptions of such goods, so far as the same may appear.

¹These words were inserted by s. 2 of the Calcutta Port (Amendment) Act, 1894 (Ben. Act II of 1894).

²These words in sections 113(2), 114(1) and 115 were inserted by ss. 11, 12 and 13, respectively, of the Calcutta Port (Amendment No. I) Act, 1895 (Ben. Act IV of 1895).

³This word was substituted for the word "three" by s. 118 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Sections 115—118.)

VIII of 1878.

115. In case the said goods ¹[other than those stored in warehouses licensed under section 16 of the Sea Customs Act, 1878,] shall be removed to the public warehouses, then the consignee or owner shall be liable to the charges for warehousing goods in such public warehouses; and goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners, and to the power of sale hereinafter given.

Liability of consignee or owner with respect to goods stored in public warehouses.

²116. (1) If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel and goods at any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners shall give to the Commissioners notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the shipowner, to an amount to be mentioned in such notice, such goods, shall continue liable to the same lien (if any) for such charges as they were subject to before the landing thereof.

Lien for freight preserved after landing of goods, if notice of lien be given.

(2) Such goods shall be retained either in the warehouses and sheds of the Commissioners or in warehouses licensed under section 16 of the Sea Customs Act, 1878, or with the consent of the Chief Officer of Customs, in the public warehouses at the risk and expense of the owners of the goods, until the lien is discharged as hereinafter mentioned.

Goods to be retained in warehouses and sheds until discharge of lien.

117. Upon the production to the ³[employee] of the Commissioners in that behalf of a document purporting to be a receipt for the amount claimed as due, or a release of freight, from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Commissioners to permit such goods to be removed without regard to such lien :

Commissioners may permit goods to be removed without regard to lien.

Provided they shall have used reasonable care in respect to the authenticity of such document.

118. If the tolls, dues, rates and charges payable to the Commissioners in respect of any goods under this Act are not paid,

or if the lien of the shipowner for freight, where such notice as aforesaid has been given, is not discharged.

Power of Commissioners to sell goods by public auction.

¹See foot-note 2 on page 74, *ante*.

²Section 116 was substituted for the former section by s. 5 of the Calcutta Port (Amendment No. II) Act, 1895 (Ben. Act VI of 1895).

³See foot-note 2 on page 34, *ante*.

(Chapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Sections 119, 119A.)

the Commissioners may, and, in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or, if the goods are of a perishable nature, at such earlier period, being not less than twenty-four hours after the landing of the goods as they shall think fit,

sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Notice to be given before sale of goods.

119. (1) Before making such sale, ten days' notice of the same shall be given by publication thereof in the ¹[*Calcutta Gazette*],

unless the goods are of so perishable a nature as, in the opinion of the ²[employee] of the Commissioners in that behalf, to render immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

Notice to be given to owner by letter if address be known.

(2) If the address of the owner of the goods has been stated on the manifest of the goods or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post :

but the title of a *bona fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Disposal of goods not removed from the premises of the Commissioners within time limited.

³119A. (1) Notwithstanding anything contained in this Act, where any goods placed in the custody of the Commissioners upon the landing thereof are not removed by the owner or other person entitled thereto from the premises of the Commissioners within one month from the date on which such goods were placed in their custody, the Commissioners may, if the address of such owner or person is known, cause a notice to be served upon him by letter delivered at such address or sent by post, or if the notice cannot be served upon him or his address is not known, cause a notice to be published in the *Official Gazette* and also in at least one of the principal local daily newspapers,

¹This expression shall stand unmodified—*Vide* para. 3 and Sch. IV of the Government of India (Adaptation of Indian Laws) Order, 1937.

²See foot-note 2 on page 34, *ante*, as amended by Act XLVIII of 1952.

³This section was inserted by s. 119 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Section 120.)

requiring him to remove the goods forthwith and stating that in default of compliance therewith the goods are liable to be sold by public auction :

Provided that where all the rates and charges payable under this Act in respect of any such goods have been paid, no notice or removal shall be so served or published under this sub-section unless two months have expired from the date on which the goods were placed in the custody of the Commissioners.

(2) If such owner or person does not comply with the requisition in the notice served upon him or published under sub-section (1), the Commissioners may, at any time after the expiration of one month from the date on which the notice was so served or published, sell the goods by public auction after giving notice of the sale in the manner prescribed in section 119.

(3) The Central Government may, by notification in the *Official Gazette*, exempt any goods or class of goods from the operation of this section.

120. (1) ¹[In the case of any sale under section 118 or section 119A], the moneys received from the sale shall be applied as follows :—

Application of proceeds of sale.

- (a) in payment of the expenses of the sale ;
- (b) in payment, according to their respective priorities, of the liens and claims excepted in section 111 from the priority of the liens of the Commissioners for tolls, rates and dues; and
- (c) in payment of the tolls, charges and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the Commissioners under this Act in respect thereof.

(2) The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his applying for the same :

Surplus of sale-proceeds to whom to be paid.

Provided that such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made to the satisfaction of the Commissioners ; and in case such application shall not be so made, nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

¹These words and figures within square brackets were substituted for the words "In every case of any such sale as aforesaid" by s. 120 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

(Chapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Sections 121, 122 & 122A.)

Power of Collector of Customs to distrain vessels for non-payment of tolls.

121. If the master of any vessel in respect of which any tolls, dues, rates, penalties or charges shall be payable under this Act, or any rules or orders made in pursuance thereof, shall refuse or neglect to pay the same or any part thereof on demand,

it shall be lawful for the Commissioners to apply to the Collector of Customs of the Port of Calcutta ;

and such Collector shall distrain or arrest of his own authority such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners shall be paid ;

and in case any part of the said tolls, dues, rates, penalties or charges, or of the cost of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment shall have been so made, the Collector of Customs may cause the vessel or other things so distrained or arrested to be sold ;

and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges, and costs, including the costs of sale remaining unpaid ; rendering the surplus (if any) to the master of such vessel on demand.

Port clearance not to be granted until tolls, etc., are paid.

122. If the Commissioners shall give to the ¹[officer of the Government], whose duty it shall be to grant the port clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, dues, rates or charges, or penalties chargeable under this Act or any bye-laws, rules or orders made in pursuance thereof, against such vessel, or the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel,

such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

Warehouses, may be made bonded warehouses, and warrants may be granted.

²122A. (1) All warehouses of the Port Commissioners shall be deemed to be private warehouses and capable of being licensed as such under section 16 of the Sea Customs Act, 1878 ; and all the provisions of that Act relating to licensed private warehouses shall be applicable to all such warehouses.

VIII of 1878.

¹The words "officer of the Crown" were originally substituted for the words "officer of Government" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "Government" was substituted for the word "Crown" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

²Sections 122A, 122B and 122C were inserted by s. 15 of the Calcutta Port (Amendment No. I) Act, 1895 (Ben. Act IV of 1895).

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part IX.—Of Levying Tolls and Rates.—Sections 122B.—122D.—Chapter V.—Of the Powers of the Commissioners as Conservators of the Port.—Section 123.)

VIII of 1878.

(2) The warrants delivered under section 96 of the Sea Customs Act, 1878, shall, in the case of the said warehouses, be signed by the Commissioner or some person duly authorized by them in that behalf.

¹122B. It shall be lawful for the Commissioners to give, in the manner provided by section 53, general security, by bond or otherwise, for payment of the import duty due on goods stored in bonded warehouses, or for the due exportation of such goods. When such security shall have been given by the Commissioners, no further security shall be required by the Chief Customs Authority from any other person to the same effect.

Commissioners may give security for duty on bonded goods.

¹122C. The Commissioners shall not be liable to compensate the owners of petroleum stored in any warehouse licensed under section 16 of the Sea Customs Act, 1878, for any loss by fire, however arising, or for any direction or damage or diminution in quantity by leakage or otherwise, unless such direction, damage or diminution has been caused by the negligence of the Commissioners or their servants.

Commissioners may store goods in bonded warehouses.

²122D. Notwithstanding anything contained in section 111 and in sections 116 to 122 (both inclusive), the Commissioners may recover by suit any tolls, dues, rates, rents, charges, damages, expenses, costs or in case of sale, the balance thereof when the proceeds of sale are insufficient, or any penalties or fines payable to, or recoverable by, the Commissioners under this Act or under any bye-laws made in pursuance thereof.

Alternative remedy by suit.

CHAPTER V

Of the Powers of the Commissioners as Conservators of the Port.

XV of 1908.

³123. (1) All moneys received by the Commissioners as the Conservators of the Port and of the Port approaches, or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act, 1908, excluding all fees and all fines and penalties creditable to the pilotage account of the port under sub-section (5a) of that section shall be deemed to be a portion of the income of the Commissioners and shall be included in their annual estimates and accounts.

Moneys received by the Commissioners as Conservators of Port or as body appointed under section 36 of the Indian Ports Act, 1908.

¹See foot-note 2 on page 71, ante.

²This section was inserted by s. 121 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

³This section was substituted for the original section by s. 122, *ibid.*

(Chapter V.—Of the Powers of the Commissioners as Conservators of the Port.—Section 124.—Chapter VI.—Of Wrecks.—Section 125.—Chapter VII.—Of Bye-Laws.—Section 126.)

Powers etc., of the Commissioners as Conservators of Port or as body appointed under section 36 of the Indian Ports Act, 1908.

(2) All the powers, authorities and restrictions contained in this Act in respect of the works by this Act authorised shall apply to the works which may be executed by the Commissioners as such Conservator or body, not being the works the cost of which is chargeable to the pilotage account of the port under sub-section (5b) of section 36 of the Indian Ports Act, 1908, and also to the sanction of such works, the estimates therefor and the expenditure thereunder.

XV of 1908.

124. [Port dues, etc., received by Commissioners as Conservators to be included in debt to Government.—Rep. by s. 123 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).]

CHAPTER VI Of Wrecks.

Commissioners to exercise functions of Receiver of Wreck.

125. The Commissioners shall, if and when appointed under the provisions of section 73¹ of the Indian Merchant Shipping Act, 1880, to be Receivers of Wreck within the limits of their jurisdiction, exercise within such limits all the functions of a Receiver of Wreck under the said Act.

VII of 1880.

CHAPTER VII Of Bye-laws.

Power to make, alter or repeal bye-laws.

²126. (1) It shall be lawful for the Commissioners in meeting, from time to time, to make such bye-laws consistent with this Act and with the Indian Ports Act, 1889³, as they may think necessary for any of the following purposes (that is to say) :—

X of 1889.

- (a) for regulating, declaring and defining the docks, wharves, quays, stages, jetties and piers on and from which goods shall be landed from, and shipped in, vessels within the port ;
- (b) for regulating the manner in which, and the conditions under which, the loading and discharging of all vessels within the port shall be carried out ;

¹Act VII of 1880 was repealed and re-enacted by the Indian Merchant Shipping Act, 1923 (XXI of 1923). Act XXI of 1923 was again repealed and re-enacted by Act XLIV of 1958 and this reference should now be construed as reference to section 391 of the last mentioned Act.

²Section 126 was substituted for the former section by s. 6 of the Calcutta Port (Amendment No. II) Act, 1895 (Ben. Act VI of 1895).

³Act X of 1889 was repealed and re-enacted by the Indian Ports Act, 1908 (XV of 1908), and this reference should now be construed as a reference to the latter Act.

of 1890.]

(Chapter VII.—Of Bye-Laws.—Section 126.)

- (c) for the safe and convenient use of such docks, wharves, quays, stages, jetties and piers, and of landing-places, ¹[shelters for passengers], warehouses, warehouses licensed under section 16 of the Sea Customs Act, 1878, sheds and other works in and adjoining the same ;
- (d) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed for taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged ;
- (e) for the mode of payment of tolls, dues, rates and charges levied under this Act ;
- (f) for the removal of wrecks from the port or the river, and keeping clean the port, the river, the bank of the river, and the works of the Commissioners, and for preventing filth and rubbish being thrown therein or thereon ;
- (g) for regulating the hours during which European seamen and apprentices shipped on the same footing as European seamen may be employed on board ships lying in the port, or on docks, wharves, quays, stages, jetties and piers, in work necessitating exposure to the sun ;
- (h) for the guidance of persons employed by them under this Act ; and
- (i) for otherwise carrying out the purposes of this Act.

(2) The Commissioners in meeting may, from time to time, repeal, alter, or add to any bye-law made under this section.

(3) No bye-law, repeal or alteration of any bye-law shall have effect until the same is confirmed by the ²{Central Government}.

(4) No bye-law, and no repeal or alteration or, or addition to, any bye-law, shall be confirmed until the same has been published ³[for two weeks successively in the *Official Gazette* and until fourteen days have expired from the date on which the same had been first published in the *Gazette*].

¹These words were inserted by s. 2 of the Calcutta Port (Amendment) Act, 1926 (Ben. Act I of 1926).

²See foot-note 2 on page 12, *ante*.

³These words were substituted for the words "in three consecutive numbers of the *Official Gazette*" by s. 124 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

(Chapter VII.—Of Bye-Laws—Sections 127, 128.—Chapter VIII.—Of the Constitution and Control of Port Police Force.—Sections 129—132.)

Penalty for infringement of bye-laws.

127. In making any bye-law under the last preceding section, the Commissioners in meeting may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to two hundred rupees for every day after the first during which the breach continues.

Bye-laws and tables of tolls, etc., to be printed and hung up at docks, etc.

128. The Commissioners shall cause the said bye-laws, and the tables of tolls, dues, rates and charges leviable, to be printed in the English and Bengali languages and characters, and to be hung up at the several docks, wharves, quays and jetties, and other convenient places on the premises of the Commissioners.

CHAPTER VIII

Of the Constitution and Control of Port Police Force.

Constitution of Port Police Force.

129. A Police Force shall be formally enrolled for the Port of Calcutta, to be styled the "Port Police Force," and shall consist of a special Superintendent to be called the "Superintendent of Port Police," and such number of officers and men as the ¹[Central Government] shall, from time to time, direct.

Port Police Force to be under control of Commissioner of Police.

130. The Port Police Force shall be under the direction and control of the Commissioner of Police for Calcutta, and shall form a portion of the Police Force of Calcutta, and shall be subject to the provisions of the Calcutta Police Act, 1866.

Ben. Act IV of 1866.

Superintendent of Port Police to act under control of Commissioner of Police.

131. The Superintendent of Port Police shall, in all matters connected with the prevention of crime, and the detection, apprehension and detection of offenders in order to their being brought before a Magistrate, and the preservation of the public peace, act under the direct control of the Commissioner of Police for Calcutta.

Superintendent of Port Police to submit daily reports of offences.

132. The Superintendent of Port Police shall submit daily reports to the Commissioners of all offences (if any) committed contrary to the provisions of this Act, or of the Indian Ports Act, 1889², or of any Port rules and bye-laws in force prescribed in accordance therewith, and of all accidents occurring on the river within the limits of the Port.

X of 1889.

¹See foot-note 2 on page 12. *ante*.

²Act X of 1889 was repealed and re-enacted by the Indian Ports Act, 1908 (XV of 1908), and this reference should now be construed as a reference to the latter Act.

of 1890.]

(Chapter IX.—Of the Port Police Budget.—Sections 133, 134.—
Chapter X.—Miscellaneous.—Section 134A.)

CHAPTER IX
Of the Port Police Budget.

133. (1) The Commissioner of Police, on or before the first day of January in each year, shall transmit to the Commissioners a budget or estimate of the expenses of the Port Police Force for the financial year commencing on the first day of April then next ensuing.

Commissioner of Police to submit budget or estimate of Port Police Force to Commissioners.

(2) The Police Budget shall show the various heads of expenditure of the Police Force.

134. (1) The Chairman shall lay every such budget before the Commissioners at the first meeting of the Commissioners held after such budget has been transferred.

Budget when to be laid before Commissioners.

(2) The Commissioners shall thereupon forward such budget to the ¹[Central Government], with such remarks as to them may seem fit ; and it shall be in the ²[Power] of the ¹[Central Government] to pass, or to reject, or to modify, all or any sums entered in the same ³[as it thinks fit.]

Budget to be submitted to Central Government.

(3) The amount of the estimates passed, or such proportion of the same as shall be fixed upon by the ¹[Central Government], shall be paid to such officer as the ¹[Central Government] may from time to time direct, by the Commissioners.

Amount of estimates passed to be paid to officer appointed by Central Government.

CHAPTER X
Miscellaneous.

¹134A. The Chairman shall furnish to the Central Government such reports, returns, documents or other information relating to the work of the Commissioners under this Act as may, from time to time, be called for by the Central Government.

Supply of reports, returns, etc., to the Central Government.

¹See foot-note 2 on page 12, *ante*.

²This word was substituted for the word "discretion" by para. 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.

³These words were inserted, *ibid*.

⁴Sections 134A and 134B were inserted by s. 125 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

(Chapter X.—Miscellaneous.—Sections 134B, 135, 136 & 136A.)

Annual
administra-
tion report
of the Port.

¹134B. As soon as may be after the first day of April in every year and not later than such date as may be fixed in this behalf by the Central Government, the Commissioners shall submit to the Central Government a detailed report of the administration of the Port during the preceding year ending on the thirty-first day of March in such form as the Central Government may direct.

Indemnity
to Commis-
sioners
against
default of
employees,
etc.

135. The Commissioners shall not be answerable for any act or default of any Conservator or Harbour Master of the port, or of any Deputy or Assistant of the said ²[employees], or of any person acting under the authority or directions of any such ³[employee] or assistant, heretofore or hereafter done within the limits of the Port ;

nor for any damage or injury heretofore or hereafter sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other thing belonging to the Commissioners within the Port which may be used by such vessel :

Provided that nothing in this section shall protect the said Commissioners from an action in respect of any act done by, or under the express order or sanction of the said Commissioners.

Persons
employed
under this
Act to be
public
servants for
certain
purposes.

⁴136. Every person employed under this Act shall, for the purposes of section 161 to 171 (both inclusive), 184, 185 and 409 of the Indian Penal Code and for the purposes of the Prevention of Corruption Act, 1947, be deemed to be a public servant within the meaning of section 21 of the said Code.

Act XLV of
1860. II of
1947.

Power to
evict certain
persons
from the
premises
belonging
to the
Commis-
sioners.

⁵136A. (1) Notwithstanding anything contained in any other law, if the Commissioners, in exercise of the powers conferred on them by rules made under this Act, cancel the allotment of any premises made to any employee of the Commissioners, the Commissioners may, by notice in writing, order such allottee or any other persons who may be in occupation of the whole or any part of the premises to vacate them and deliver the same to them or a person appointed by them in that behalf within such period as may be specified in the notice.

¹See foot-note 4 on page 83, *ante*.

²See foot-note 1 on page 34, *ante*.

³See foot-note 2 on page 34, *ante*.

⁴Sections 136 and 136A were substituted for sec. 136 by s 126 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

⁵See foot-note 5 on page 76, *ante*.

of 1890.]

(Chapter X.—Miscellaneous.—Sections 137, 138.)

Explanation.—For the purposes of this section, “permises” means any building or part of building and includes—

- (i) the gardens, grounds and outhouses, if any, appertaining to such building or part of a building ;
- (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof ; and
- (iii) any furniture, books or other things belonging to the Commissioners and found in such building or part of a building.

(2) If any allottee or other person refuses or fails to comply with an order made under sub-section (1), any presidency-magistrate or magistrate of the first class may, on application made by or on behalf of the Commissioners, order any police officer, with proper assistance, to enter into the premises and evict any person from, and take possession of, the premises and to deliver the same to the Commissioners or a person appointed by them in that behalf and the police officer may for that purpose, use such force as may be necessary.

(3) Any such notice as is referred to in sub-section (1) may be served—

- (a) by delivering or tendering it to the allottee or any other person who may be in occupation of the whole or any part of the premises, or
- (b) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises, or
- (c) registered by post.

137. Any person who wilfully deposits, or permits his servants to deposit any dust, dirt, dung, ashes, refuse or filth of any kind, or any animal matter, or any broken glass, earthenware or rubbish, in or upon any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners, or in or upon any part of the river bank within the Port, shall be liable to a fine not exceeding ten rupees for each offence.

Penalty for committing certain nuisances on docks etc.

138. (1) Every charge of an offence against any provision of this Act, or of any rule, order or bye-law made under the provisions of this Act, alleged to have been committed within Calcutta may be instituted before any Magistrate having jurisdiction, who may summon the person charged to appear at a time and place to be mentioned in the summons ;

Jurisdiction in case of offences committed within Calcutta.

(Chapter X.—Miscellaneous.—Sections 139—143.)

and if such person do not appear, the Magistrate may upon proof of service of the summons, if no sufficient cause shall be shown for the non-appearance of the person charged, proceed to hear and determine the case in his absence.

(2) If such person do appear, then the procedure laid down in the Code of Criminal Procedure, 1882¹, from sections 242 to 248 (both inclusive), shall be followed.

Act X of 1882.

Jurisdiction in case of offences committed out of Calcutta.

139. Every charge of an offence against the provisions of this Act, or of any rule, order or bye-law made under the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, according to the provisions of the Code of Criminal Procedure, 1882².

Police-officers to give immediate information of certain offences.

140. It shall be the duty of all police-officers, whether members of the Port Police Force or not, to give immediate information to the Commissioners of any offence committed contrary to the provisions of this Act, or of the Indian Ports Act, 1889³, of any bye-laws or rules having the force of law prescribed in accordance therewith.

Act X of 1889.

Police-officer may arrest persons committing nuisances.

141. (1) Any such police-officer may arrest any person committing in his view any offence against any of the said provisions, if the name and address of such person be unknown.

(2) Such person may be detained at the station-house until his name and address shall be correctly ascertained.

Time allowed for institution of suits.

142. No suit shall be brought against any person for anything done, or purporting or professing to be done, in pursuance of this Act, after the expiration of three months from the day on which the cause of action in such suit shall have arisen.

Application of certain provisions of the Act to aircraft.

143. The provisions of sections 35, 89, 91, 97, 99 to 102 (both inclusive), 104, 104A, 105, 106, 121, 122, 126 and 135 shall apply in relation to all aircraft making use of the port while on water as they apply in relation to vessels.

¹Act X of 1882, was repealed and re-enacted by the Code of Criminal Procedure, 1898 (Act V of 1898), and this reference should now be taken to be made to sections 242 to 248 (both inclusive) of the latter Act.

²This reference should now be taken to be made to the Code of Criminal Procedure, 1898 (Act V of 1898).

³Act X of 1889 was repealed and re-enacted by the Indian Ports Act, 1908 (XV of 1908), and this reference should now be construed as a reference to the latter Act.

⁴This section was inserted by s. 127 of the Port Trusts and Ports (Amendment) Act, 1951 (XXXV of 1951).

of 1890.]

(First and Second Schedules.)

FIRST SCHEDULE.

(See Section 2.)

Acts of the Lieutenant-Governor of Bengal in Council.

Number and Year.	Subject	Extent of repeal.
Act V of 1870 ..	To appoint Commissioners for making improvements in the Port of Calcutta.	So much as has not been repealed.
Act IV of 1879 ..	To provide for the levy of fees upon certain passenger boats and steam-ferries.	The whole.
Act IV of 1880 ..	For amending the Calcutta Port Improvement Act, 1870.	So much as has not been repealed.
Act I of 1881 ..	To amend the Calcutta Port Improvement Act (Amendment Act), 1880.	The whole.
Act II of 1883 ..	To amend the Calcutta Port Improvement Act, 1870.	Ditto.
Act II of 1885 ..	To enable the Commissioners for the Port of Calcutta to construct docks.	Ditto.
Act III of 1887 ..	To amend the Calcutta Port Improvement Act, 1870.	Ditto.

¹[* * * * *]

²SECOND SCHEDULE.

(See Section 91).

Form of Receipt for Goods.

By the Commissioners ³[of] the Port of Calcutta.

Landed during the day of from the

by the Commissioners ³[of] the Port of Calcutta the noted in the margin (if there be any apparent injury this is to be stated), contents and the state of the contents unknown.

For the Commissioners ³[of] the Port of Calcutta.

CALCUTTA ;

A. B.

day of 19.

¹The original Second Schedule was repealed by the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

²This Schedule was originally numbered "Third Schedule" and has now been re-numbered "Second Schedule" by s. 10 of the Calcutta Port (Amendment) Act, 1907 (Ben. Act II of 1907).

³Sic Read (for)—See sec. 4.