

THE RANGOON PORT COMMISSIONERS ACT,  
1879.

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[Price eight annas and six pies.]

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# ACT NO. XV OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 12th September, 1879).

An Act to appoint Commissioners for the Port of Rangoon.

**WHEREAS** it is expedient to provide for the management of the affairs of the Port of Rangoon, and for that purpose to appoint Commissioners; It is hereby enacted as follows :—

Preamble.

## CHAPTER I.

### PRELIMINARY.

1. This Act may be called "The Rangoon Port Commissioners Act, 1879":

Short title.

and it shall come into force on such date as the Local Government may notify in the local official Gazette.

Commencement.

Nothing herein contained shall affect the powers conferred on the Chief Commissioner of British Burma under the British Burma Municipal Act, 1874, section 28.

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

Interpretation-clause.

"port" means the Port of Rangoon as defined for the purposes of this Act :

"port":

"river" means any flowing water within a radius of eight statute-miles from Soolay Pagoda wharf navigable by vessels, and includes the bank up to high-water mark :

"river":

"high-water mark"

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“ high-water mark” : “ high-water mark” means a line drawn through the highest points reached by ordinary spring-tides at any season of the year :

“ low-water mark” : “ low-water mark” means the lowest point reached by ordinary ebb spring-tides at any season of the year :

“ vessel” : “ vessel” includes anything made for the conveyance by water of human beings or of property :

“ master” : “ master,” when used in relation to any vessel, means any person (except a pilot or harbour-master) having for the time being the charge or control of such vessel :

“ pilot” : “ pilot” means a person for the time being authorized by the Local Government to pilot vessels :

“ owner” : “ owner” includes also any agent to whom a vessel is consigned :

“ land” : “ land” includes the bed of the river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth ; and

“ commis- sioners.” “ commissioners” means the Commissioners appointed under this Act.

Power to define and alter limits of port. **3.** The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, define the limits of the port for the purposes of this Act, and may, from time to time, with the like sanction, and by a like notification, alter such limits.

Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, quays, stages, jetties, piers, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the port or river, whether within or without high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

CHAPTER II.

OF THE APPOINTMENT AND REMOVAL OF THE COMMISSIONERS.

4. The Local Government may, from time to time, appoint persons, either by name or by virtue of their office, to be Commissioners for the Port of Rangoon : Appointment of Commissioners.

Provided that—

(a) the number of such Commissioners holding office at one and the same time shall not be more than twelve or less than nine :

(b) the number of such Commissioners who are persons holding salaried offices under Government shall not be—

(i) less than four or more than six when the total number of Commissioners is eleven or twelve ;

(ii) less than three or more than five when the total number of Commissioners is nine or ten.

5. Commissioners shall hold office for two years, and may thereafter be reappointed ; but the Local Government may at any time accept the resignation of any Commissioner. Tenure of office.

6. Notwithstanding anything in sections four and five, the Local Government may,— Removal of Commissioners.

(a) with the previous sanction of the Governor General in Council, by written order direct that any Commissioner therein named shall cease from a specified date to be a Commissioner ;

(b) by written order direct that any Commissioner therein named who, without the written consent of the Local Government, absents himself from six consecutive meetings of the Commissioners shall cease to be a Commissioner :

and the Commissioner so named shall cease to be a Commissioner accordingly.

7. The Local Government may from time to time appoint one of the Commissioners to be Chairman and another of the Commissioners to be Vice-chairman, and cancel such appointment. Such Chairman and Vice-chairman. Chairman and Vice-chairman.

Vice-chairman

Vice-chairman respectively shall receive such remuneration, if any, as the Local Government may from time to time determine.

Appoint-  
ments, &c.,  
to be notified.

8. Every appointment and removal from office made and resignation accepted under sections four, five, six and seven shall be notified in the local official Gazette.

### CHAPTER III.

#### POWERS AND DUTIES OF COMMISSIONERS.

Administra-  
tion vests in  
Commis-  
sioners.

9. Subject to the powers conferred on, and reserved to, the Governor General in Council and the Local Government respectively by this Act or any other enactment for the time being in force, the execution and administration of the powers and trusts created and declared by this Act shall be vested in the Commissioners.

Power to  
hold prop-  
erty.

10. With the previous sanction of the Local Government, the Commissioners may acquire and hold moveable or immovable property within or without the limits of the port; and, with the same sanction, may lease, mortgage, sell or exchange such property.

Transfer of  
Government-  
property to  
Commis-  
sioners.

11. The property specified in schedule A hereto annexed shall be vested in the Commissioners:

Provided that—

(a) no buildings or other permanent structures shall be erected thereon, except with the sanction of, and in accordance with plans to be previously approved by, the Local Government;

(b) any portion of such property required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the Commissioners, except for buildings or other permanent structures erected thereon with the sanction of the Local Government subsequently to the date on which this Act comes into force;

(c) if any question arises between the Government and the Commissioners as to the boundaries of any portion of such land, the Local Government may define

define and demarcate such boundaries, and the decision of the Local Government in respect to such boundaries shall be final.

12. As compensation for loss of income heretofore derived from any source of revenue transferred from the municipality of Rangoon to the Commissioners, the Local Government may assign annually to the said municipality, from the money received by the Commissioners, such sum not exceeding the average of such income during the five years next preceding the date on which this Act comes into force as the Local Government thinks fit.

Compensation to municipality for loss of income.

13. When any land is required for the purposes of this Act, the Local Government may, on the request of the Commissioners, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the Commissioners of the compensation awarded under that Act, the land shall vest in the Commissioners.

Acquisition of land.

14. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners shall be held and applied by them in trust for the purposes of this Act.

Property to be in trust.

15. The works to be constructed and carried out by the Commissioners may include the following:—

Works to be constructed.

(a) wharves, quays, stages, jetties and piers, with all necessary and convenient drains, arches, landing-places, stairs, fences and approaches;

(b) tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods and merchandise landed or to be shipped;

(c) laying down moorings and the erection of cranes, scales and all other necessary appliances for loading and unloading vessels;

(d) reclaiming, enclosing and raising any part of the bank or bed of the river within the limits of the port;

(e) the construction and application of dredges and other machines for cleaning, deepening and improving



proving the bed of the river within the limits of the port ;

(*f*) procuring and employing steam-vessels for towing vessels into, out of, in or upon, the river or the port ;

(*g*) such works without the limits of the port as shall be necessary for the protection of works executed under this Act ;

(*h*) all such other works and appliances as may in the opinion of the Commissioners be necessary for carrying out the provisions of this Act.

Power to  
make Port-  
rules.

16. With the previous sanction of the Local Government, the Commissioners may from time to time make rules consistent with this Act and with the Indian Ports Act, 1875, for any of the following purposes (that is to say) :—

(*a*) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port ;

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same ;

(*c*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged ;

(*d*) for the mode of payment of tolls, charges, dues and rates levied under this Act ;

(*e*) for providing water for ships and for licensing and regulating water-boats within the port ;

(*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 or rubbish being thrown therein or thereon ;

(*g*) for

(g) for otherwise carrying out the purposes of this Act.

Such rules, when sanctioned by the Local Government, shall be published in the local official Gazette, and shall thereupon have the force of law.

17. Within the limits of the port, pilots in charge of vessels shall obey all lawful orders issued to them by the Commissioners in respect to such vessels. Control of pilots within the port.

18. The Commissioners shall make a sufficient number of landing-places within the port, from and upon which the public shall be permitted to embark and land free of charge. Free public landing-places.

19. The Commissioners may occupy or remove or alter any bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same: provided that the Commissioners shall provide for the use of the public such other bathing-places or landing-places (if any) as the Local Government may direct. Removal of bathing and landing-places.

20. For the expeditious and convenient shipment and landing of goods in and from sea-going vessels within the port, and for the storing of such goods, the Commissioners shall provide and maintain sufficient wharves, quays, stages, jetties, piers, warehouses and sheds, and sufficient servants and appliances, and shall by their servants land and ship all goods from and in any such vessel coming to such wharf, quay, stage, jetty or pier, except where there is a lawful excuse for refusing to land or ship such goods, or such vessel is under any enactment for the time being in force not entitled to have her cargo shipped or discharged: provided that— Appliances for shipping, &c., for sea-going vessels.

(a) the Commissioners shall not be bound to land, ship or move any single article or package exceeding ten tons of twenty hundredweight in weight, except at such special charge as may be agreed on in respect of such article or package;

(b) the Commissioners may, by special agreement with the masters of vessels or the owners of goods, permit goods to be landed and shipped by others than the servants of the Commissioners.

21. When

Sea-going  
vessels  
compelled  
to use  
wharves,  
&c.

21. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing and shipping or for landing or for shipping goods from and in sea-going vessels, the Commissioners may, with the previous sanction of the Local Government, by a notification published in three consecutive numbers of the local official Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

From and after such publication the Commissioners may from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any sea-going vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to take in cargo.

If accom-  
modation  
sufficient,  
all sea-going  
vessels  
compelled  
to use  
wharves,  
&c.

22. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Commissioners may, with the previous sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, direct that no goods shall be landed or shipped from or in any sea-going vessels within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order.

Inland ves-  
sels com-  
pelled to use  
wharves,  
&c.

23. When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, has been made and completed by the Commissioners, with sufficient warehouses, sheds and appliances in that behalf, the Commissioners may, with the sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels, and that, within

certain

certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or in any vessel not being a sea-going vessel of any class specified in such order, except at such wharf, quay, stage, jetty or pier, nor for any such vessel while within such limits to anchor, fasten or lay within fifty yards of low-water mark without the consent of the Commissioners.

If after such publication any such vessel, while within such limits, so anchors, fastens or lays, the Commissioners may cause the same to be removed out of the said limits.

The Commissioners may in like manner, with the like sanction, alter, vary or revoke any such order.

**24.** The Commissioners may, by notice in writing, order the master or owner of any vessel to remove such vessel from any wharf, quay, stage, jetty or pier belonging to the Commissioners, and, unless such vessel is removed therefrom within thirty-six hours after service of such notice on the master or owner thereof, the Commissioners may charge in respect of such vessel such sum as they think fit not exceeding one 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 remains at such wharf, quay, stage, jetty or pier.

Power to order removal of vessels from wharves, &c.

**25.** Notwithstanding anything contained in sections twenty-one, twenty-two and twenty-three, the Local Government may, by notification in the local official Gazette, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments, and on such conditions, as the Local Government may think fit, and otherwise grant exemption from the provisions of such sections.

Power to exempt from obligation to use wharves, &c.

The Local Government may also, by like notification, cancel or modify any such notification.

**26.** Whenever any goods are landed by the Commissioners

Discharge

missioners

of liability  
on goods  
landed.

missioners from any vessel, the Commissioners shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in schedule B hereto annexed, and may in any such receipt include all goods landed from such vessel during one day. No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Wharves,  
&c., to be  
appointed  
under Customs Acts.

27. When the Local Government appoints, under the provisions of any Act for the regulation of duties of customs, any wharf, quay, stage, jetty, pier, warehouse or shed provided under this Act for the use of sea-going vessels to be a wharf for the landing or shipping, or a warehouse for the storing, of goods within the meaning of such Act, the Commissioners shall set apart, maintain and secure on or in such wharf, quay, stage, jetty, pier, warehouse or shed such portion thereof or place therein, or adjoining thereto, for the use of the officers of Customs as the Local Government approves of or appoints in that behalf.

Dues at  
customs-  
wharves, &c.

28. Notwithstanding that any wharf, quay, stage, jetty, pier, warehouse or shed, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of Customs, all dues, rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof, or for the stowage of goods therein, shall be paid and be payable to the Commissioners or to such persons as they may appoint to receive the same.

Private  
wharves, &c.,  
prohibited.

29. Save as hereinafter provided, no person except the Commissioners shall, after the date on which this Act comes into force, make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Any matter or thing so made, erected or fixed may be removed by the Commissioners, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine which  
may

may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has 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.

**30.** The Local Government may, by an order in writing, and subject to the conditions contained in the same, permit any person to make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Power to permit erection of private wharves, &c., within the port subject to conditions. Wharves, &c., beyond port-limits.

**31.** In case any wharf, dock, quay, stage, jetty, pier, erection or mooring is, after the date on which this Act comes into force, without the consent in writing of the Local Government, 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 are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection or mooring has been made, erected or fixed, the Commissioners may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier, erection or mooring without making any compensation therefor.

**32.** The Commissioners shall frame—

(a) a scale of tolls, dues, rates and charges for the landing and shipment of goods from and in sea-going vessels and vessels not being sea-going vessels respectively at the wharves, quays, stages, jetties and piers, and for the use of such wharves, quays, stages, jetties and piers by such vessels, and for the storing and keeping of any goods stored in any premises belonging to the Commissioners, and for the removal of goods, and for the use of any mooring ;

Scale of tolls and charges to be framed.

(b) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers by any such vessels, in case the Commissioners permit the goods to be landed or shipped by others than their own servants ; and

(c) a scale of charges for any services to be performed

formed by the Commissioners or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the Commissioners.

Such scales shall be submitted to the Local Government, and, after approval or modification by the Local Government, shall be published by the Commissioners in the local official Gazette.

Subject to the like approval or modification and publication, the Commissioners may, from time to time, alter the said scales.

Every such scale shall be printed in the English and Burmese languages and characters, and shall be hung up, and kept hung up, in some conspicuous place at the several wharves, quays, stages, jetties, piers, warehouses and sheds.

Commis-  
sioners' lien  
for tolls and  
charges.

**33.** For the amount of all tolls, dues, rates and charges levied 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.

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

The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Owner's lien  
for freight.

**34.** If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any wharf, quay, stage, jetty or pier, gives to the Commissioners notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned

in

in such notice, such goods shall continue liable after the landing thereof to such lien.

Such goods shall be retained either in the warehouses and sheds of the Commissioners or, with the consent of the Chief Officer of Customs, in the public warehouses, at the risk and expense of the owners of the said goods, until the lien is discharged as herein-after mentioned.

**35.** Upon the production to any officer appointed by the Commissioners in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Commissioners may permit such goods to be removed without regard to such lien: provided they shall have used reasonable care in respect to the authenticity of such document.

Discharge of  
ship-owners'  
lien for  
freight.

**36.** Whenever goods have, without any default on the part of the Commissioners, been left for two clear days on or in any wharf or shed belonging to the Commissioners, the Commissioners may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the Chief Officer of Customs, to the public warehouses; and the removal to and detention in any such warehouse shall be at the risk and expense of the owners of the said goods.

Goods may  
be removed  
to ware-  
houses.

Whenever any goods are so removed, the Commissioners shall give notice to the consignee or owner of such goods of such removal, if his address be known, by letter sent by post to such address or left thereat; and shall also publish in the local official Gazette and in two local newspapers notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear; and the consignee or owner of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the Commissioners, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.



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If the goods are removed to the public warehouses, the said consignee or owner shall be liable to the charges for warehousing goods in such public warehouses; and the said 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 shall be subject to the power of sale hereinafter given.

Recovery of  
tolls and  
charges by  
sale of goods.

**37.** 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 for freight, **primage** or general average where such notice as aforesaid has been given is not discharged, the Commissioners may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, **primage** or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the local official Gazette and in two local newspapers.

If the address of the owner of the goods has been stated on the manifest of the cargo, 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 *boná fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent :

Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Commissioners in that behalf, to render early or immediate sale necessary or advisable, the Commissioners may, within such period not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or

such

such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods as the urgency of the case admits of.

**38.** The proceeds of every such sale shall be applied as follows:—

Application of sale-proceeds.

(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 thirty-three from the priority of the lien of the Commissioners ;

(c) in payment of the tolls, dues, rates and charges of landing, removing, storing or warehousing the same, and of all other charges due to the Commissioners in respect thereof.

The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same: provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Commissioners why such application was not so made; 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.

**39.** If the master of any vessel in respect of which any tolls, dues, rates, charges or penalties are payable under this Act, or any rules or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Commissioners may apply to the Collector of Customs of the port, and such Collector shall distrain or arrest 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 is paid ;

Recovery of tolls and charges by distraint of vessel.

and, in case any part of the said tolls, dues, rates, charges or penalties, or of the costs of the distress or arrestment, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrestment has been so made, the Collector of Customs may cause the vessel or other thing so distrained or arrested to be sold, and, with the pro-

ceeds of such sale, shall satisfy such tolls, dues, rates, charges or penalties 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 till tolls, &c., are paid.

40. If the Commissioners give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, dues, rates, charges or penalties chargeable under this Act, or any rules or orders made in pursuance thereof, against such vessel, or by 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 has been paid.

Compensation for damage to property of Commissioners.

41. In case any damage or mischief is done to any wharves, docks, quays, jetties, stages, piers or works constructed or acquired by the Commissioners under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, any Magistrate of the town of Rangoon may, on the application of the Commissioners, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved 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, the Magistrate may 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 the distress: provided that if, at the time

of

of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the Pilot Service or the Harbour-Master's or Master-Attendant's Department, the case shall not be cognizable by the Magistrate under this section.

42. The Commissioners shall provide such sums as the Local Government may from time to time require for the establishment and maintenance of Police, to be called "River Police," for the protection of the port, the approaches to the port and the river. Such sums shall be a first charge on any property vested in, and on any moneys paid or payable to, the Commissioners under this Act. River Police.

The River Police shall be enrolled under Act No. V of 1861 (*for the Regulation of Police*).

43. The Local Government may, from time to time, delegate to the Commissioners all or any of the powers conferred on the Chief Commissioner of British Burma within the port under the Burmese Steamer Survey Act, 1871, and may at any time resume the same. Local Government may delegate powers to survey steamers.

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#### CHAPTER IV.

##### OF THE GENERAL CONTROL OF GOVERNMENT.

44. All acts and proceedings of the Commissioners shall be subject to the approval of the Local Government; and the Local Government may cancel, suspend or modify any such acts or proceedings, and may grant exemption from the payment of any tolls, charges, dues or rates leviable under this Act. Commissioners' acts subject to approval.

45. The Local Government may from time to time make rules consistent with this Act as to the cost and class of works which the Commissioners may execute, and the objects to which the receipts of the Commissioners shall be applied. Control over works and expenditure.

46. The Local Government may at any time order a survey and examination of any works of the Commissioners under this Act, or the site thereof, and the Local Government may order survey.

cost of such survey or examination shall be borne and paid by the Commissioners.

Local Government may carry out neglected works.

47. If the Commissioners allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them or duly estimated for and sanctioned, and do not, after notice given by the Local Government in writing, proceed effectually to repair or complete such work, the Local Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Commissioners.

Governor General in Council may revoke powers of Commissioners.

48. If at any time the Governor General in Council is satisfied that the purposes intended to be accomplished under this Act have not been and are not likely to be properly accomplished by the Commissioners, the Governor General in Council may, by notification in the *Gazette of India*, to be republished in the local official Gazette, give notice that, unless within six months the Commissioners take measures to the satisfaction of the Governor General in Council for properly accomplishing such purposes, the powers by this Act conferred on the Commissioners will, at the end of such period, be withdrawn and revoked.

On the expiration of the period aforesaid, the Governor General in Council may, if no such measures to his satisfaction have been taken by the Commissioners, declare such powers to be withdrawn or revoked, and may direct the Local Government to assume such powers; and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Commissioners shall thereupon vest in the Local Government.

## CHAPTER V.

### OF SUITS BY AND AGAINST THE COMMISSIONERS.

Chairman or Vice-chairman to sue.

49. The Commissioners shall sue and be sued in the name of their Chairman or of their Vice-chairman.

50. No

**50.** No Commissioner shall be personally liable for any contract made or expense incurred by or on behalf of the Commissioners; but the funds from time to time in the hands of the Commissioners shall be liable for, and chargeable with, all contracts made in manner hereinafter provided.

Commissioners not personally liable.

**51.** Every Commissioner shall be liable for any misapplication of money entrusted to the Commissioners to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

Commissioners liable for breach of trust.

**52.** No suit shall be brought against the Commissioners or any of their officers, or any person acting under their direction, for anything purporting to be done under this Act until the expiration of one month next after notice in writing has been delivered or left at the office of the Commissioners, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Limitation of suits.

Unless such notice be proved, the Court shall dismiss the suit.

Every such suit shall be commenced within six months next after the accrual of the right to sue, and not afterwards.

If any person to whom any such notice of suit is given before suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

**53.** The Commissioners shall not be answerable for any act or default of any Master-Attendant or Harbour-Master, or of any Pilot, or of any deputy or assistant of any of the officers above-mentioned, or of any person acting under the authority or direction of any such officer or assistant, done within the limits of the port; nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things within the said limits which may be used by such vessel:

Indemnity to Commissioners for acts of Harbour-Master, &c.

Provided that nothing in this section shall protect the Commissioners from a suit in respect of any act done by or under their express order or sanction.

CHAPTER VI.

OF MEETINGS, ESTABLISHMENT, CONTRACTS AND THE  
GENERAL CONDUCT OF BUSINESS.

A Commis-  
sioner may  
be secretary.

54. The Commissioners may, if they think fit, elect one of their number to be secretary to the Commissioners.

Seal and  
place of  
business.

55. The Commissioners shall have a common seal inscribed "Port Commissioners, Rangoon," and an office where the Commissioners shall meet for the transaction of business.

Monthly  
meetings and  
remunera-  
tion for at-  
tendance.

56. The Commissioners shall meet for the transaction of business at least once in every month; and for attendance at every such meeting the Commissioners shall, subject to such conditions as the Local Government may from time to time prescribe, receive such fees as the Local Government may from time to time direct: provided that such fees shall not be given for attendance at such meetings oftener than once a month.

Chairman  
and Vice-  
chairman to  
attend.

57. The Chairman and Vice-chairman shall, unless prevented by sickness or other reasonable cause, attend all meetings of the Commissioners.

Ordinary  
and special  
meetings.

58. The Chairman, or, in the event of his illness or absence from Rangoon, the Vice-chairman, may whenever he thinks fit, and shall upon a requisition made in writing by not less than three Commissioners, convene a meeting of the Commissioners for the transaction of any special business.

Meetings so convened are special meetings; all other meetings are ordinary meetings.

Notice of  
meetings.

59. At least three days' notice shall be given of every meeting of the Commissioners, and the notice shall state the nature of the business to be transacted.

Conduct of  
business at  
meetings.

60. At all meetings of the Commissioners the business shall be conducted in accordance with the following rules:—

(a) the Chairman, or, in his absence, the Vice-chairman, shall be President; if both be absent, the  
Commissioners

Commissioners may elect one of their number to be President :

(b) the President may, with the consent of the meeting, adjourn the meeting from time to time ;

(c) at special meetings no business shall be transacted other than the special business for the consideration of which the meeting was specially called ; at ordinary meetings any business may be transacted of which due notice has been given ;

(d) the quorum necessary for the transaction of business shall be such number, not less than five, as the Commissioners may from time to time prescribe ;

(e) all questions which may come before the Commissioners at any meeting shall be decided by a majority of votes. Each Commissioner shall have one vote ; and, in case of equality of votes, the President shall have a second or casting vote ;

(f) minutes of the proceedings at all meetings of the Commissioners shall be drawn up after each meeting and shall be signed by the President and at least one other member who was present at such meeting ; a copy of all such minutes shall, as soon as conveniently may be, be transmitted to the Secretary to the Local Government.

61. The Commissioners may appoint one or more of their number to carry out their resolutions, and to enforce any of the rules made under the provisions of this Act, or they may appoint a special officer for such purpose.

Mode of giving effect to resolutions.

62. No proceedings of the Commissioners at any special or ordinary meeting shall be deemed invalid solely by reason of defect of notice or defect of form.

Proceedings not invalidated by defect of form.

63. The Commissioners shall from time to time prepare and submit to the Local Government a schedule setting forth the number of officers and servants necessary for carrying out the purposes of this Act, and of the salaries, fees and allowances which it is proposed to assign to such officers and servants. The Local Government may sanction such schedule, or modify and sanction the same. Every such schedule

Schedule of establishment.



so sanctioned shall remain in force till some other such schedule has been so prepared and sanctioned.

It shall not be lawful for the Commissioners to employ any officer or servant for any office or employment not sanctioned in such schedule, nor to pay or allow to any officer or servant any salary, allowance or fee greater than, or beyond, that sanctioned therein.

Nothing in this section applies to artizans, porters or labourers.

Commissioners are public servants.

64. The Commissioners and the servants of the Commissioners other than artizans, porters and labourers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Commissioners may make bye-laws.

65. The Commissioners may from time to time make bye-laws consistent with this Act for regulating the time and place of their meetings, the conduct of their business, the division of the duties among themselves, the guidance of persons employed by them, the appointment, payment, leave, suspension and removal of their officers and servants mentioned in the schedule last aforesaid, and for other similar matters.

The making of contracts.

66. Such one of their number as the Commissioners may from time to time, with the previous sanction of the Local Government, appoint in this behalf may, for and on behalf of the Commissioners, enter into any contract whereof the value or amount shall not exceed two hundred rupees, in such manner and form as, according to the law for the time being administered in Rangoon, would bind him if such contract were on his own behalf; but every other contract by or on behalf of the Commissioners shall be in writing and signed by the Chairman or Vice-chairman and by two other Commissioners, of whom one shall be an *ex officio* Commissioner, and shall be sealed with the common seal of the Commissioners: provided that no contract under or by virtue of which a sum greater than ten thousand rupees may in any event be payable by the Commissioners shall be valid

without

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without the assent in writing of the Local Government.

No contract not executed as in this section provided shall be binding on the Commissioners.

67. No new work the estimated cost of which exceeds five hundred rupees shall be commenced by the Commissioners, nor shall any contract be entered into by the Commissioners in respect of any such work, until a plan and estimate thereof has been approved by the Commissioners at a meeting.

Manner in which work to be sanctioned.

In case the estimated cost of such new work exceeds five thousand rupees, it shall not be commenced, nor shall any contract be entered into in respect of it, until such plan and estimate have been submitted to the Local Government and sanctioned by it in an order published in the local official Gazette.

And, in case the estimated cost of any such work exceeds fifty thousand rupees, the Local Government shall not sanction the same until such plan and estimate have been submitted to the Governor General in Council and approved by him.

68. All moneys raised by and paid to the Commissioners under this Act shall be kept in the Bank of Bengal in Rangoon, and no disbursement of such funds, or any part thereof, shall be made—

Money to be kept in Bank.

(a) in excess of such sum as may in that behalf be from month to month appropriated by the Commissioners at a meeting; or

(b) except under the signature of the Chairman or Vice-chairman.

69. The Commissioners shall annually, or oftener if directed by the Local Government so to do, submit in such form and at such time as the Local Government may from time to time direct—

Submission of reports, accounts and estimates.

(a) statements of their receipts and disbursements under this Act;

(b) reports of all works executed and proceedings taken by them under this Act;

(c) an estimate of their probable receipts for the financial

financial year next following, with proposals for the expenditure of the same.

Audit of accounts and sanction and publication of estimates.

70. The accounts of the Commissioners shall be examined and audited in such manner as the Local Government may from time to time direct; and, subject to the provisions of this Act, the estimate of probable receipts, and the proposals for expenditure as aforesaid, may on submission be sanctioned by the Local Government, or may be modified or altered and sanctioned.

An abstract of such estimates and proposals shall, when sanctioned, be published in the local official Gazette.

## CHAPTER VII.

### PENALTIES.

Commissioners not to be interested in contract, &c.;

71. Any Commissioner or servant of the Commissioners who directly or indirectly lends money to the Commissioners, or becomes interested in any contract made by, or on behalf of, the Commissioners, or participates, or agrees to participate, in any profits of any work done by order or on behalf of the Commissioners, shall forfeit his office or employment, as the case may be, and shall be incapable afterwards of being a Commissioner or holding employment under the Commissioners, and shall further be punished with fine which may extend to five hundred rupees :

but may be shareholder in a Company so interested.

Provided that no Commissioner or servant of the Commissioners shall be liable to a penalty under this section solely by reason of his being a shareholder in any duly incorporated or registered Company which may lend money to, or make contracts with, or do work for or on behalf of, the Commissioners.

Infringement of section 21, 22, 23, 25 or 30.

72. Whoever infringes any order issued under section twenty-one, twenty-two or twenty-three, or any condition prescribed under section twenty-five or thirty, shall be punished with fine which may extend to one hundred rupees; and, if the infringement be continuing, with a further fine which may extend

extend to one hundred rupees for every day such order is infringed.

**73.** Whoever infringes any rule framed by the Commissioners under section sixteen shall be liable to a fine which may extend to fifty rupees; and, if the infringement be continuing, to a further fine which may extend to ten rupees for every day after notice of such infringement has been given by the Commissioners.

Infringement  
of rules.

**74.** Whenever any person is sentenced to a fine under this Act, the convicting Court may direct that, in default of payment of the fine, such person shall suffer simple imprisonment for a term which shall not exceed the following scale:—

Punishment  
in default of  
fine.

(a) two months in the case of continuing infringement of section twenty-nine;

(b) one month in the case of continuing infringement of sections twenty-one, twenty-two and twenty-three;

(c) fourteen days if the fine does not exceed fifty rupees;

(d) one month if the fine does not exceed one hundred rupees;

(e) two months if the fine exceeds one hundred rupees.

**75.** Prosecutions under this Act may be instituted by the Commissioners or any person authorized by them in this behalf and not otherwise.

Prosecutions.

## CHAPTER VIII.

### MISCELLANEOUS.

**76.** All acts done and proceedings taken by the Strand Bank Committee before this Act comes into force, and all orders, rules and regulations relating to the port and to wharves, quays, stages, jetties, piers, landing-places, tolls, charges, rates and dues within the port made and issued before this Act comes into force, shall, whenever such acts, proceedings, orders, rules or regulations would have been lawful if this

Saving of  
previous port-  
regulations.

Act had been in force, be deemed to have been respectively done, taken, made and issued under the provisions of this Act.

Receiving of  
dues as reve-  
nue.

77. All fees and sums due on account of property for the time being vested in the Commissioners, and all arrears of tolls, charges, rates and dues imposed under this Act, may be recovered as if they were arrears of land-revenue, in addition to the other modes hereinbefore provided.

SCHEDULE A.

(Referred to in section 11).

I.—All the land belonging to Government between the river on the south and the Strand Road and the Monkey Point Battery Road on the north, but not including those roads, from Monkey Point on the east to and including the Canal on the west, except—

(a) the land occupied by the Municipality of Rangoon;

(b) the land occupied by the Military Authorities as an approach to Godwin's wharf and to an extent of 100 feet on either side thereof;

(c) the land occupied by the Military Authorities for the defences at Monkey Point;

(d) the land assigned for railway-purposes;

(e) the land occupied on the east side of East Street by the Department of Public Works;

(f) the land occupied by Customs-officers' quarters and by the Master-Attendant's residence, office and compound.

II.—All other land belonging to Government within the limits of the present Port of Rangoon lying within a line drawn at fifty yards from high-water mark, except—

(a) the land occupied by the Rangoon Gaol saw-mill;

(b) the land occupied as Government timber-depôts at Ahlone and Monkey Point;

(c) the

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(c) the Dalla Dockyard and the lands attached thereto.

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SCHEDULE B.

(*Referred to in section 26*).

RECEIPT FOR GOODS.

*By the Port Commissioners, Rangoon.*

Landed during the \_\_\_\_\_ day of \_\_\_\_\_  
from the \_\_\_\_\_, by the Port Commissioners,  
Rangoon, the \_\_\_\_\_ noted in the margin; con-  
tents and state of the contents unknown.

NOTE.—*If there be any apparent injury, this is to be stated.*

*For the Port Commissioners, Rangoon.*

The RANGOON; }  
day of . } A. B.