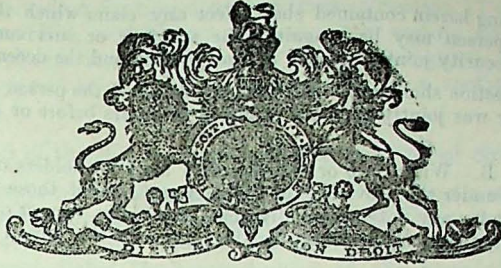


THE



Bombay Government Gazette.

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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Report of the Select Committee of the Council of His Excellency the Governor of Bombay on the Bill further to amend the Bombay Port Trust Act, 1879, and the Bill as amended by the Select Committee, are, in accordance with Rule 35 of the Rules for the conduct of Business at Meetings of the Council, published for general information:—

*Report of the Select Committee appointed to consider Bill No. IV of 1897
(a Bill further to amend the Bombay Port Trust Act, 1879).*

WE, the Members of the Select Committee appointed to consider Bill No. IV of 1897 (a Bill further to amend the Bombay Port Trust Act, 1879), have the honour to report that we have carefully considered the Bill, and the following further amendments of the Act, which were also placed before us:

Section 1.—In the Bombay Port Trust Act, 1879, which is hereinafter referred to as the said Act, at the end of clause 12 of Section 3 of the said Act the following shall be added, viz.:

“and debentures and securities issued under the provisions of the ‘City of Bombay Improvement Act, 1898.’”

The sections in the above-mentioned Bill, numbered, respectively, 1, 2, 3, 4, 5, 6, 7 and 8, shall be numbered, respectively, 2, 3, 4, 5, 6, 7, 8 and 9.

Instead of the first paragraph of Section 1 in the said Bill the following shall be substituted, viz.:

“In the said Act, after the second paragraph of Section 13 the following shall be added, viz. :”

Section 10.—After Section 42 of the said Act there shall be inserted the following new sections, viz.:

“Section 42A. (1) Notwithstanding anything in the Indian Contract Act, 1872, Section 45, when any debenture or security issued under the provisions of 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.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the debenture or security jointly payable to him or them and the deceased.

(3) This section shall apply whether the death of the person to whom the debenture or security was jointly payable occurred or occurs before or after this Act comes into force.

Section 42 B. Where two or more persons are joint holders of any debenture or security issued under the provisions of 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 Board by any other of the holders."

The sections in the said Bill, numbered, respectively, 9, 10, 11 and 12, shall be numbered respectively 11, 12, 13 and 14.

Section 15.—After Section 51 of the said Act there shall be inserted the following new section, viz.:

"51A. (1) For the purposes of any investment which the Board are authorized to make by this Act it shall be lawful for the Board to reserve and set apart any debentures or securities to be issued by them on account of any loan to which the consent of Government has been given: provided that the intention to so reserve and set apart such debentures or securities shall have been notified as a condition to the issue of the loan.

(2) The issue of any such debentures or securities direct to and in the name of 'The Trustees of the Port of Bombay' 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 or the transfer, assignment or endorsement to the Board of any debenture or security issued by the Board, 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) All debentures or securities of the Board heretofore purchased by, issued, transferred or assigned to or endorsed into the names of the Trustees of the Port of Bombay or any person on their behalf and all debentures and securities heretofore issued by way of renewal, consolidation or subdivision 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 endorsed to any other person."

2. With regard to the first of the above amendments we are of opinion that clause 12 of Section 3 of the Act should be a little more comprehensive, and with the object of making it so, we have, taking Section 20 of the Indian Trusts Act, 1882, as a general guide, substituted for the proposed Section 1 a new section by which "Public securities" are defined to include—

- (a) Promissory Notes, debentures, stock or other securities of the Government of India;
- (b) Debentures or other securities for money issued by or on behalf of—
 - (i) any Municipal body or any Port Trust under the authority of any Act of a legislature established in British India;
 - (ii) the City of Bombay Improvement Trust under the authority of Act of 1898.

3. A new section 1 as above being added to the Bill, the original sections 1, 2, 3, 4, 5, 6, 7 and 8 have been renumbered as Sections 2, 3, 4, 5, 6, 7, 8 and 9 respectively, and will, in the remainder of this report, be quoted accordingly.

4. With regard to Section 2 of the Bill we are of opinion that the addition which was proposed to be made to Section 13 of the Act in the form of a proviso could be more suitably made as a third sub-section, the present two paragraphs of Section 13 being turned into sub-sections (1) and (2) respectively. We have altered the section accordingly.

5. We have approved and retained Section 3 of the Bill, excepting the last clause (k) of the proviso, which we have omitted as being, in our opinion, too extensive in its scope. We have also made some slight changes in the form and wording of this section.

6. We have re-drafted Section 5 on the lines of Section 17 of the City of Bombay Improvement Bill, which was settled after mature deliberation. In consequence of this change the addition of a clause to Section 73 of the Act has become necessary, and to effect this we have added a section (13) to the Bill.

7. In Section 9 of the Bill we have made certain verbal changes.

8. We have approved and embodied in the Bill Sections 10 and 15 as proposed in the amendments quoted in paragraph 1 of this report. The insertion of these two sections and the sections referred to in paragraphs 2 and 6 of this report has necessitated the renumbering of the remaining sections of the Bill, which has been done, and the references in the following paragraphs of this report will be to the sections as thus renumbered.

9. From Section 17 of the Bill we have omitted the proviso it originally contained. We do not see the advantage of the arrangement therein contemplated, since, as we understand, the present arrangement for the performance of the services in question has proved quite satisfactory. The Port Trust appears to us to be an agency which is and will always be better placed and better furnished for the performance of these services than the Municipality is likely to be, and although the latter body has statutory power to provide a water-supply and maintain a fire brigade for the Port, which is technically part of the City of Bombay, yet it has so far been content to be relieved of the responsibility by the Port Trust, and no conflict between the two bodies has arisen.

10. In Section 20 we have modified the wording of the latter part of the original section of the Act to meet the present altered conditions, the appointment of Master Attendant having ceased to exist.

11. In Section 21 of the Bill we have omitted the first and fifth entries in column 3 of the Schedule, the latter as being unnecessary, the repeal having already been effected by Section 11 of the Bill, and the former, because in the opinion of the Honourable the Advocate General the omission of the reference to the provision in the original Act regarding the definition of the limits of the Port is inexpedient until those limits have been defined under the present Act.

12. We approve of the remaining sections of the Bill, and recommend that the Bill, as now altered by us, be passed into law.

13. The original Bill was published in Gujaráti and Maráthi in the *Bombay Government Gazette* of the 16th and 18th December 1897, respectively. We do not think it necessary that the Bill as amended by us should be republished in any of the vernacular languages.

(Signed) W. C. HUGHES.

(„) BASIL LANG.

(„) PHEROZESHAH M. MEHTA.
(subject to remark*).

(„) BHALCHANDRA KRISHNA.

(„) VIJBHUCANDAS ATMARAM.

(„) R. H. MACAULAY.

* I wish to state that while I agree in the conclusion stated in paragraph 9 of the Report, I do so for reasons different from those which are advanced therein.—P. M. M.

Bombay, 22nd April 1898.

Bill No. IV of 1897.

A Bill further to amend the Bombay Port Trust Act, 1879.

(As amended by the Select Committee on the 22nd April 1898.)

WHEREAS it is expedient further to amend the Bombay Port Trust Act, 1879, in manner hereinafter appearing: It is enacted as follows:—

1. In the Bombay Port Trust Act, 1879, which is hereinafter referred to as the said Act, for clause (12) of section 3 there shall be substituted the following, viz.:

“(12) the words ‘Public securities’ mean:

(a) promissory notes, debentures, stock or other securities of the Government of India;

(b) debentures or other securities for money issued by, or on behalf of,—

(i) any Municipal body or any Port Trust under the authority of any Act of a legislature established in British India;

(ii) the City of Bombay Improvement Trust under the authority of Act of 1898.”

2. In the said Act, after the second paragraph of section 13, the following shall be added, viz. :—

“Provided always that nothing in the foregoing paragraph shall prevent a person being elected or appointed for a shorter period than three months in the place of an absent trustee, on the application of the Board if the absentee be an elective trustee, or at the discretion of Government if he be a nominee trustee.”

3. In the said Act the first two paragraphs of section 13 shall be numbered as sub-sections (1) and (2) and the following shall be added:

“(3) Nothing in the last preceding sub-section shall prevent a person being elected or appointed for a shorter period than three months in the place of an absent trustee, on the application of the Board

Saving provision for acting appointment when necessary for less than three months.

if the absentee be an elective trustee, or at the discretion of Government if he be a nominee trustee.”

3. 2. For section 14 of the said Act the following shall be substituted, viz.:

(1) “No person shall be qualified to be a trustee of such office of trustee. Disqualifications for a trustee if such person who—

(a) is an uncertificated bankrupt or insolvent; or

(b) has been convicted and sentenced to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence conviction not having been subsequently reversed or quashed; or

(c) holds any office or place of profit under the Board; or

(d) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by or on behalf of the Board.

(2) Provided that no person shall not be so disqualified, or be deemed to have any share or interest in such contract or employment by reason only of his having a share or interest in—

(a) (e) any lease, sale, exchange or purchase of immovable property, or any agreement for the same; or

(b) (f) any license by the Board, or right by agreement or otherwise with the Board to the sole or preferential use of any railway sidings or any berth for vessels in the docks belonging to the Board; or

(c) (g) any agreement for the loan of money, or any security for the payment of money only; or

(d) (h) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or

(e) (i) any joint-stock company which shall contract with, or be employed by or on behalf of the Board; or

Bo. Act III of 1888, s. 16 (2) (g).

Bo. Act III of 1888, s. 16 (2) (h).

Bo. Act III of 1888, s. 16 (2) (i).

Bo. Act VI of 1879.

Bo. Act VI of 1879.

Act I of 1898, s. 20.

Bo. Act of 1898.

Bo. Act VI of 1879.

Bo. Act III of 1888, s. 16 (2) (k).

Bo. Act III of
1888, s. 16
(2) (f).

(f) (j) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one official year, of any article in which he trades or.

(k) any contract which has been specially authorized by the Governor in Council."

4. 3. After section 14 of the said Act the following sections shall be inserted :

Trustee who becomes disqualified to cease to be a trustee.

Grounds on which Trustees shall vacate office.

"14 A. Any

trustee who

(a) becomes disqualified for any of the reasons mentioned in the last preceding section ; or

(b) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or without the permission of the Board from six consecutive ordinary meetings of the Board, other than special meetings ; or

(c) acts in contravention of the provisions of the next succeeding section ; shall cease to be a trustee, and his office shall thereupon become vacant.

"14 B. A trustee shall not at any meeting of the Board or a Committee thereof take part in the discussion of or vote on any matter in which he has directly or indirectly by himself or his partner any share or interest such as is described in the proviso to section 14, sub-section (2), or in which he is interested either professionally on behalf of a client or as agent for any person."

When trustee may not take part in the discussion of or vote on any matter at any meeting of the Board or a Committee thereof.

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

4. In section 15 of the said Act for the proviso contained in the second paragraph thereof there shall be substituted the following, viz. :

"Provided that no trustee shall be paid more than thirty rupees for his attendance at any number of meetings other than special meetings, held during any one week.

~~Every trustee other than the Chairman shall be entitled to a fee of fifteen rupees for each special meeting of a Committee called under clause (5) of section 16 at which a quorum is present and which he attends from the beginning to the end thereof."~~

5. In the said Act the first paragraph of Section 15 shall be numbered as sub-section 15. (1) and for the second paragraph of the same section there shall be substituted the following, viz. :

"(2) Every trustee other than the Chairman who shall attend a meeting at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof, shall be entitled to a fee of—

Fees to which trustees other than the Chairman shall be entitled.

(a) Rs. 30 for every ordinary meeting of the Board, provided that if such meeting is adjourned or more than one ordinary meeting is held in any one week, no more than Rs. 30 shall be paid to any trustee for his attendance at all such meetings during that one week ;

(b) Rs. 30 for every special meeting of the Board convened under sub-section 2 of the next succeeding section ;

(c) Rs. 15 for every special meeting of a Committee of which such trustee attending is a member, convened under sub-section 5 of the next succeeding section provided that such special meeting of a Committee is not held upon the same day in continuation of or preparatory to an ordinary or special meeting of the Board for which he is entitled to a fee under either of the preceding clauses.

(3) The aggregate amount of fees payable to any trustee under the last preceding sub-section in respect of meetings held during any month shall not exceed Rs. 200, or such sum as may be fixed by any by-law from time to time made in this behalf."

Proviso.

Bo. Act III of
1888, s. 17
(a).

Bo. Act III of
1888, s. 17
(b).

Bo. Act III of
1888, s. 36
(p).

6. 5. In the proviso to section 21 of the said Act as amended by Bombay Act III of 1883, in place of the word and figure "and 6" there shall be substituted the following, *namely, viz.* "6 and 7."

7. 6. To section 22 of the said Act there shall be added the following, *viz.* :

"(7) for determining the conditions

Determining conditions of grant of wound pensions or compassionate allowances.

under which pensions, gratuities or compassionate allowances may be paid to any of such officers and servants injured, or to the surviving relatives of any of such officers and servants killed, in the execution of their duty."

8. 7. In section 23 of the said Act for the first twenty-two words thereof there shall be substituted the following, *viz.* :

"Subject to the provisions of the schedule for the time being sanctioned by the Board under section 21 and of the regulations for the time being in force."

9. 8. In section 37 of the said Act after the first sentence ending with the word "thoroughfare" there shall be inserted the following, *viz.* :

"Provided that in respect of any such road or thoroughfare wholly constructed after the ~~the~~ day of ~~the~~ 189 *passing of this Act* the Commissioner before making such declaration may further require to be satisfied that the same has been drained, and that such lamps, lamp-posts and ~~such~~ other apparatus ~~as he deems as are in his opinion~~ necessary for the lighting thereof and should be provided by the Board have been so provided by the Board."

10. After section 42 of the said Act there shall be inserted the following new sections, *viz.* :

"42A. (1) Notwithstanding anything in the Indian Contract Act, 1872, Section 45, when

any debenture or security issued under the provisions of 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.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the debenture or security jointly payable to him or them and the deceased.

(3) This section shall apply whether the death of the person to whom the debenture or security was jointly payable occurred or occurs before or after this Act comes into force.

"42B. Where two or more persons ^{52 Vict. c. 6, s. 4 (4).} are joint holders of

any debenture or security issued under the provisions of 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 Board by any other of the holders."

11. 9. The last three paragraphs of section 43 of the said Act are repealed.

Insertion of two new sections after section 43.

12. 10. After section 43 of the said Act the two following sections shall be inserted, *viz.* :—

"43A. The Board may also frame a scale of charges for use of dock, &c. scale of charges to be levied

(a) for the permission to use, and for the use of, any dock in the possession of the Board and for services which the Board renders to, and for gear, tackle, tools, instruments, utensils, staging or materials supplied by the Board for the purpose of, any vessel using, or any person working in, any such dock;

(b) subject to the provisions of section 68, for the use of water-boats, barges and fire-engines belonging to or maintained by the Board, and for water supplied by the Board in accordance with the provisions of Section 68; and

(c) for the towing of, and rendering assistance of the nature referred to in clause (1) of section 68 to, vessels outside the limits of the port.

"43B. (1) Every scale framed by the Board under either of the two last preceding sections shall be submitted to Government for sanction; and, when so

Act XIII of 1896, s. 5.

sanctioned and published in the *Bombay Government Gazette*, shall have the force of law; and, subject to the like sanction and publication, may from time to time be amended or added to by the Board.

“(2) The Board may, in special cases, Rates may be remitted in special cases. with the previous sanction of Government, remit the whole or any portion of the rates or of any charge leviable according to any scale in force under this section.”

13. 11. After clause (5) of section 49 of the said Act the following clause shall be inserted, viz. :
Amendment of section 49.

“(6) The payment of pensions, gratuities and compassionate allowances granted by the Board to officers and servants of the Board injured, or to the surviving relatives of such officers and servants killed, in the execution of their duty.”

14. 12. To section 50 of the said Act there shall be added the following, viz. :
Amendment of section 50.

“(4) The payment of pensions, gratuities and compassionate allowances granted by the Board to pilots and other officers and servants engaged in the pilot-service, who have been injured, and to the surviving relatives of pilots, officers and servants so engaged, who have been killed, in the execution of their duty.”

15. After section 51 of the said Act there shall be inserted the following new section, viz. :
Insertion of a new section after section 51.

“51A. (1) For the purposes of any investment which the Board are authorized to make by this Act it shall be lawful for the Board to reserve and set apart any debentures or securities to be issued by them on account of any loan to which the consent of Government has been given provided that the intention to so reserve and set apart such debentures or securities shall have been notified as a condition to the issue of the loan.
Board may invest in its own debentures and securities.

(2) The issue of any such debentures or securities direct to and in the name of ‘The Trustees of the Port of Bombay’ 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 or the transfer assignment or endorsement to the Board of any debenture or security issued by the Board 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) All debentures or securities of the Board heretofore purchased by issued transferred or assigned to or endorsed into the names of the Trustees of the Port of Bombay or any person on their behalf and all debentures and securities heretofore issued by way of renewal consolidation or subdivision 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 endorsed to any other person.”

16. 13. After section 67 of the said Act there shall be inserted the following new section, viz. :
Addition Insertion of a new section after section 67.

“67A. Notwithstanding anything contained in the seven sections last preceding and in section 85, the Board may recover by suit any tolls, dues, rents, rates, 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 Board under this Act or under any by-laws made in pursuance thereof.”
Alternative remedy by suit.

17. 14. In section 68 of the said Act between clause (7) and the proviso thereto the following shall be inserted, viz. :
Amendment of section 68.

“(8) the extinguishment extinguishing of fires on the property of the Board, and the equipment, maintenance and use of engines for that purpose ;

“(9) the equipment of vessels, steam tugs or other boats and their use as well within the limits of the Port as on the high seas beyond those limits, and

whether in territorial waters or otherwise for the purpose of towing or rendering assistance to any vessel whether entering or leaving the Port, or bound elsewhere and for the purpose of saving or protecting life or property ;

“(10) the supply of water to shipping in the Port, and the equipment, maintenance and use of boats and barges for that purpose ;

“(11) the extinguishment *extinguishing* of fires in the Port, and the equipment, maintenance and use of engines for that purpose.”

Provided that if the Municipal Commissioner of Bombay shall, on the thirtieth day of September in any year, have given notice to the Board in writing that in exercise of the powers vested in him in that behalf, he will, from the first day of April then next ensuing, undertake either the works specified in clause (10) or the works specified in clause 11 or both, as shall be stated in such notice, the following consequences shall ensue :

(1) On the first day of April next following the receipt of such notice :

(a) the authority vested in the Board

(i) to undertake, and

(ii) to levy charges for the use thereafter of

the works stated in the notice shall determine, but without prejudice to the right of the Board to recover any charges theretofore leviable in respect of such use ;

(b) the Municipality of Bombay shall take over and acquire from the Board all such boats and engines other than stationary engines and all such machinery, appliances and plant theretofore employed by the Board for the purposes of the works specified in the notice, as the Board may require the Municipality so to take over and acquire ; and

(2) the Municipality shall pay to the Board, as the price of all boats and other property taken over and acquired under this section, such sum or sums as may be

~~fixed in respect thereof by two persons who shall be nominated, one by the Board and the other by the Municipality for the purpose, or in case such persons differ in opinion, then such sum or sums as Government may determine.”~~

18. In section 73 of the said Act, the word “and” at the end of clause (g) shall be omitted ; clause (h) shall be lettered as clause (i) ; and the following shall be inserted as clause (h) :

“(h) for fixing the maximum amount of fees payable under section 15 ; and”

19. 15. For the proviso to section 78 of the said Act there shall be substituted the following, viz. :

“Provided that nothing in this section shall apply to a person who is declared not to be disqualified or to be deemed to have any share or interest in any contract or employment by the second sub-section (2) of section 14.”

16.—To section 84 of the said Act the following words shall be added, viz. :

“unless the damage caused is in no way attributable to the order, act, or improper omission of such officer.”

20. In the last sentence of section 84 of the said Act, between the words “authorized” and “officer” there shall be inserted the words “Dock Master or” ; the words “or of the Master Attendant’s Department” shall be omitted ; and the following words shall be added at the end of the section, viz. :—

“unless the damage caused is in no way attributable to the order, act, or improper omission of such Dock Master or officer.”

21. 17. The enactments mentioned in the Schedule are repealed to the extent specified in the third column thereof.

SCHEDULE.

(SEE SECTION 17 21.)

Enactments.	Subject.	Extent of Repeal.
Bombay Act VI of 1879.	Bombay Port Trust Act.	<p>In section 3, sub-section (2), the words from "and until" to the end of the sub-section, Section 9 to, and including, the words "in every other case."</p> <p>Section 10 to, and including, the words "in every other case."</p> <p>Section 21 the words from "until a schedule" to "foregoing provisions."</p> <p>In section 43 the words from "until a scale" to "published under this section."</p> <p>Section 57.</p>
Bombay Act III of 1883.	Bombay Port Trust amending Bombay Act VI of 1879.	Section 5.

By order of His Excellency the Right Honourable the Governor in Council,

S. L. BATCHELOR,

Secretary to the Council of the Governor of Bombay
for making Laws and Regulations.

Bombay, 13th May 1898.