

# SYDNEY HARBOUR TRUST BILL.

## *SCHEDULE of the Amendments referred to in Message of 10th October, 1900.*

- Page 8, clause 20, line 2. *Omit "at pleasure" insert "on the recommendation of the commissioners"*  
 Page 8, clause 20, line 6. *After "Act" insert "in the"*  
 Page 10, clause 27, line 14. *After "lands" insert "the property of the Crown"*  
 Page 10, clause 28. At end of clause *add "For the purposes of this section the word 'persons' shall 'be deemed to include the Crown or any person or corporation entitled to hold land on 'behalf of the Crown'"*  
 Page 10, clause 30. *Omit clause 30 insert new clause 30.*  
 Page 12, clause 33, line 29. *Omit "management and"*  
 Page 14, clause 37, line 45. *Omit "of" insert "to"*  
 Page 15, clause 40, lines 33 and 34. *Omit "subject to the approval of the Governor"*  
 Page 15, clause 40, lines 35 and 36. *Omit "and by any deed under their corporate seal may demise to the 'lessees thereof'"*  
 Page 15, clause 41, line 40. *Omit "with the approval of the Governor"*  
 Page 16, clause 43, lines 31 and 32. *Omit "Public Works Act of 1888" insert "Lands for Public 'Purposes Acquisition Act'"*  
 Page 16, clause 44, line 36. *Omit "by the Minister or"*  
 Page 16, clause 44, line 37. *After "commissioners" omit remainder of clause.*  
 Page 18, clause 48, lines 1 and 2. *Omit "subject to the approval of the Minister"*  
 Page 19, clause 52, line 13. *After "proper" insert "lease or"*  
 Page 22, clause 59, line 3. *After "no" insert "bona fide"*  
 Page 23, clause 66, line 7. *Before "year" insert "half"*  
 Page 23, clause 66, line 7. *After "year" insert "then"*  
 Page 23, clause 66, lines 7 and 8. *Omit "on the thirty-first day of December immediately preceding"*  
 Page 23, clause 68, line 25. *After "shipped" insert "on"*  
 Page 23, clause 68, lines 26 and 27. *Omit "(whether such goods, merchandise, or things are landed or 'not)" insert "so berthed"*  
 Page 23, clause 68, line 33. *After "commissioners" insert "Provided that goods, merchandise, and 'things unshipped from any vessel to any other vessel for conveyance to another port 'shall not be subject to any wharfage if a transhipment entry in respect thereof is duly 'passed at the custom-house within forty-eight hours after the time at which the 'discharging vessel has reported at the said custom-house'"*  
 Page 23, clause 68, lines 38 and 39. *Omit "are appointed" insert "otherwise provide"*  
 Page 25, clause 75, line 24. *After "and" insert "so far as funds are available"*  
 Page 32, Schedule One. At end of Schedule *add—*  

" 48 Vic. No. 18	Crown Lands Act of 1884 ...	So much of sections 64, 65, and 68 as relates to reclamations within the port of Sydney.
" 58 Vic. No. 18	Crown Lands Act of 1895 ...	So much of section 54 as relates to reclamations within the port of Sydney."







*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 5 September, 1900.* }

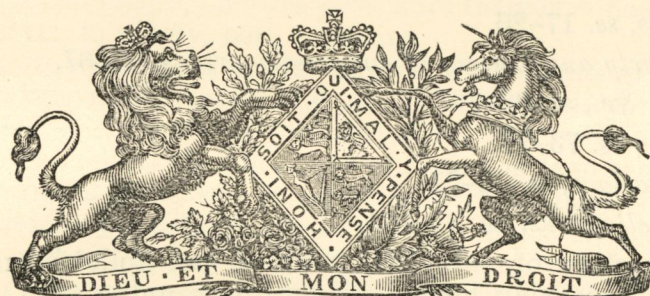
F. W. WEBB,  
*Clerk of the Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,  
Sydney, 10th October, 1900.* }

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO SEXAGESIMO QUARTO

## VICTORIÆ REGINÆ.

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Act No. , 1900.

An Act to make better provision for and in connection with the management of the port of Sydney; to establish and appoint the Sydney Harbour Trust Commissioners; to confer on such Commissioners certain powers in relation to such port, including, among other powers, the power to levy and collect certain tolls, dues, rates, rents, and charges, and to purchase and resume lands; to vest certain property in the said Commissioners; and for purposes incidental to or consequent on those objects.

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

61—A

PRELIMINARY—

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.



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PRELIMINARY—ss. 1 to 4.

1. This Act may be cited as the “Sydney Harbour Trust Act, 1900,” and shall come into force on the first day of November, one thousand nine hundred, hereinafter in this Act referred to as “the commencement of this Act.” Short title and commencement of Act.

2. The enactments hereinafter contained are arranged under Parts in the order following :— Arrangement of Act.

PART I.—*Constitution of the Sydney Harbour Trust Commission,* ss. 5–16.

10 PART II.—*Officers,* ss. 17–26.

PART III.—*Property and powers of commissioners,* ss. 27–67.

PART IV.—*Rates, &c.,* ss. 68–72.

PART V.—*Finance,* ss. 73–77.

PART VI.—*Regulations,* ss. 78–81.

15 PART VII.—*Miscellaneous,* ss. 82–104.

3. In the construction of this Act, each of the following expressions shall have the meaning hereby assigned to it, unless such meaning is inconsistent with the context in which the expression occurs :— Interpretation.

20 “Ballast”—Includes every kind of stone, gravel, sand, and soil, and material commonly used for the ballasting of vessels.

“Buoys and beacons”—Include all other marks and signs placed for the purpose of navigation.

25 “Commissioners”—Sydney Harbour Trust Commissioners constituted under this Act.

“Goods”—Includes wares, merchandise, and articles of whatsoever description.

“Harbour-master”—Includes assistant harbour-master.

30 “Master”—Includes every person having lawfully, or *de facto*, the command, charge, or management of a vessel for the time being.

“Owner of a registered ship”—Includes any person who is the owner jointly with any other person or persons, or any joint stock company registered as the owner.

35 “Owner” when used in relation to goods—Includes any consignor, consignee, shipper, or agent for the sale or custody, loading or unloading of goods, as well as the owner thereof.

“Private owner”—Any person being the owner or occupier of land other than the Crown or any Government Department.

40 “River”—Includes creek.

“Ship”—Every description of vessel used in navigation not propelled by oars.

“Shore”



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- “Shore” means shore so far as the tide flows and reflows, between high and low water-marks.
- “Stipendiary magistrate” includes a deputy or acting stipendiary magistrate.
- 5 “The port”—So much of the port of Sydney, the rivers falling into it with their tributaries, and the land on the margins thereof as is covered at mean high-water.
- “Vessel”—Ship, lighter, barge, boat, raft, craft, or vessel of whatever description and howsoever navigated.
- 10 “Wreck”—Includes jetsam, flotsam, lagan, and derelict.
4. The Acts described in Schedule One are to the extent therein Repeal. indicated hereby repealed.

PART I.

THE COMMISSION.

15 *Constitution of the Commission.*

5. There shall be three commissioners for carrying this Act into execution, who shall be a body corporate by the name of “The Sydney Harbour Trust Commissioners,” and by that name shall have perpetual succession and a common seal, with power to take, purchase, sell, lease and hold lands, goods, chattels, and other property, for the purposes of this Act, subject always to the restrictions herein contained.
- 20 6. All courts, judges, and persons acting judicially shall take judicial notice of the incorporation, and of the common seal of the Sydney Harbour Trust Commissioners, affixed to any deed, instrument, or writing, and shall presume that such seal was properly affixed thereto; and such deed, instrument, or writing, when sealed, whether such instrument or writing is required to be sealed or not, shall be admissible in evidence for and against the said commissioners on the mere production thereof, without any other or further proof of the making of such deed, instrument, or writing.
- 30 7. No uncertificated bankrupt or insolvent shall be capable of being appointed a commissioner, and no commissioner who is declared a bankrupt, or who applies to take the benefit of any Act for the relief of insolvent debtors, or who compounds by deed or instrument in writing with his creditors, shall be capable of continuing a commissioner, and the office of such commissioner shall thereupon be vacant.
- 35 8. (1) The Governor shall, as soon as conveniently practicable after the passing of this Act, appoint three persons to be “Sydney Harbour Trust Commissioners,” who, subject to the provisions herein-after contained, shall each hold office for a term of seven years.

Commissioners  
a body corporate.

Seal of commis-  
sioners.

Deed, instrument, or  
writing, sealed, ad-  
missible in evidence.

Bankrupts, &c., not  
to be or continue to  
be commissioners.

Appointment of  
commissioners.



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(2) On the occurrence of any vacancy in the office of a commissioner, the Governor shall appoint a person to the vacant office, whose term of office shall be for his predecessor's unexpired term of office. All persons appointed under the authority of this section shall, at the expiration of their respective term of office, be eligible for re-appointment for a like term of seven years.

(3) In the case of the illness, suspension, or absence of any commissioner, the Governor may appoint some person to act as the deputy of such commissioner during such illness, suspension, or absence; and every person so appointed shall, while so acting, have all the powers and perform all the duties of such commissioner.

9. (1) A commissioner may be removed for misbehaviour or incompetence in the following manner:— Tenure of office of commissioners.

(a) A commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided. The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension if Parliament be in session and actually sitting, and when Parliament is not in session or not actually sitting within seven days after the commencement of the next session or sitting.

(b) A commissioner suspended under this section shall be restored to office unless each House of Parliament shall within twenty-one days from the time when such statement shall have been laid before it, declare by resolution that the said commissioner ought to be removed from office, and if each House of Parliament shall within the said time so declare, the said commissioner shall be removed by the Governor accordingly.

10. A commissioner shall be deemed to have vacated his office,— Office how otherwise vacated.

- (a) if he shall engage, during his term of office, in any employment outside the duties of his office;
- (b) if he shall become insolvent, or apply to take the benefit of any Act now or hereafter to be in force for the relief of insolvent debtors, or shall compound with his creditors, or make an assignment of his salary for their benefit;
- (c) if he shall absent himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor (which leave he is hereby authorised to grant), or shall become incapable of performing his duties.
- (d) If he shall become in any way concerned or interested in any contract or agreement made by or on behalf of the commissioners; or shall in anywise participate, or claim to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.



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11. One of such three commissioners shall be appointed by <sup>President.</sup> the Governor as president, and on the occurrence of any vacancy in the office of president the Governor shall appoint a person to fill that office.
- 5 12. The commissioners shall receive the following salaries, <sup>Salaries of commissioners.</sup> viz. :—  
 (1) the president, two thousand pounds per annum ;  
 (2) each of the other commissioners, one thousand pounds per annum.
- 10 All such salaries are hereby charged on the Consolidated Revenue Fund ; and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.
13. For the conduct of business any two commissioners shall be <sup>Quorum.</sup> a quorum, and, subject to the enactment next following, shall have all
- 15 the powers and authorities by this Act vested in the commissioners.
14. If, at any meeting at which two commissioners only are <sup>Procedure on difference of opinion.</sup> present, such commissioners shall differ in opinion upon any matter, the determination of such matter shall be postponed until all the commissioners are present.
- 20 15. No act or proceeding of the commissioners shall be <sup>Acts of commissioners not invalidated by vacancy.</sup> invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any one commissioner.
- 25 16. The commissioners shall keep minutes of their proceedings <sup>Minutes of proceedings.</sup> in such manner and form as the Governor shall direct.

PART II.

OFFICERS.

*Administrative and other officers.*

17. (1) A secretary and staff of clerks and so many engineers, <sup>Administrative and other officer</sup> surveyors, inspectors, accountants, collectors, clerks, rangers, and such other officers and servants as may be considered necessary for the due administration of this Act shall be appointed by the Governor on the nomination of the commissioners and shall not be removed except on the recommendation of the commissioners.
- 35 Such persons so to be appointed shall be subject to the sole control and governance of the commissioners.
- No person so appointed shall be permitted to engage in any employment other than in connection with the duties of his office without the sanction in writing of the commissioners :

The



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The provisions of the Public Service Act of 1895, and any Acts amending the same, shall not apply to any person appointed under this section: Provided that nothing herein contained shall affect the rights accrued or accruing under the said Acts to any public servant  
5 whose services are transferred to the commissioners, and such public servants may continue to contribute to the superannuation account and shall be entitled to receive any payment, pension, or gratuity as if they were officers within the meaning of those Acts: Provided that all appointments at daily or weekly wages shall lie in the sole power of  
10 the commissioners.

(2) If any such secretary, treasurer, clerk, engineer, surveyor, collector, or other officer exacts, takes, or accepts on account of anything done by virtue of his office, or in relation to the functions of the commissioners any money by way of fee or reward whatsoever  
15 other than his fixed salary, or allowances, or is in anywise concerned or interested in any bargain or contract made by or on behalf of the commissioners, otherwise than as a member only (but not as a director or officer) of any company, he shall be incapable of being afterwards employed in any such office, and shall forfeit the sum of fifty pounds;  
20 and any person may sue for such penalty by action of debt in the Supreme or District Court, and shall on recovery thereof be entitled to full costs of suit.

Officer taking fees to lose his office and forfeit £50.

(3) Before any such officer intrusted with the custody and control of moneys enters upon his office, the commissioners shall take  
25 such sufficient security for the faithful execution of his office, as may be determined by the Minister.

Commissioners to take security from officers intrusted with money.

18. Every officer appointed or employed under the authority of this Act shall, when required by the commissioners, make out and deliver to them, or to any person appointed by them for that  
30 purpose, a true and faithful account in writing under his hand of all the moneys received by him on behalf of the commissioners; and such account shall state how, and to whom, and for what purpose, such moneys have been disposed of, and, together with such account, such officer shall deliver the vouchers and receipts for such payments;  
35 and every such officer shall pay to the commissioners, or to any person appointed by them to receive the same, all moneys which appear to be owing from him upon the balance of such account.

Officers to account.

19. (1) If any officer fails to render such account, or to produce and deliver up all the vouchers and receipts relating to the same  
40 in his possession or power, or to pay the balance thereof when required; or if, for five days after being required, he fails to deliver up to the commissioners, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things in his possession or power relating to the execution of this  
45 Act, or belonging to the commissioners, then, on complaint thereof being made to a justice, such justice shall summon such officer to appear

Summary recovery against persons failing to account.



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appear before a stipendiary magistrate at a time and place to be set forth in such summons to answer such charge, and upon the appearance of such officer, or, in his absence, upon proof that such summons was personally served upon him, or left at his last-  
 5 known place of abode, such stipendiary magistrate may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appears either upon confession of such officer, or upon evidence, or upon inspection of the account that any moneys of the commissioners are in the hands of  
 10 such officer, or owing by him to the commissioners, such stipendiary magistrate may order such offender to pay the same, and, if he fails to pay the amount, such stipendiary magistrate may grant a warrant to levy the same by distress, or for default of sufficient distress to satisfy the same may grant a warrant to commit the offender to gaol,  
 15 for any period authorised by law.

(2) If any officer on being so brought before such stipendiary magistrate and being required so to do refuses to make out any such account in writing, or to produce and deliver to the stipendiary magistrate the several vouchers and receipts relating thereto, or to  
 20 deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power or belonging to the commissioners, such stipendiary magistrate may commit such offender to gaol until he has made out such account or delivered up such vouchers, receipts, books, papers, writings, property, effects, matters, and things:

(3) Provided that if any commissioner, or other person acting on behalf of the commissioners, makes oath that he has good reason to believe upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer to abscond, or that he has absconded, it shall be lawful for the justice before  
 30 whom the complaint is made, instead of issuing his summons, to issue his warrant for bringing such officer before a stipendiary magistrate as aforesaid, but no person executing such warrant shall keep such officer in custody longer than forty-eight hours without bringing him before a stipendiary magistrate as aforesaid; and it shall be lawful for  
 35 the said magistrate either to discharge such officer, if he thinks there is no sufficient ground for his detention, or to order such officer to be detained in custody until the determination of the complaint, unless such officer gives bail to the satisfaction of such magistrate for his appearance to answer the complaint.

(4) No such proceeding against, or dealing with, any such officer as aforesaid shall deprive the commissioners of any remedy which they might otherwise have against any surety of such officer.

*Port officers.*

20. The Governor, on the nomination of the commissioners,  
 45 may appoint such fit and proper persons to be harbour-master and assistant

Penalty on officer refusing to deliver up documents.

Warrant may be issued in the first instance for absconding officer.

Commitment not to discharge sureties.

Power to appoint harbour-master, assistant harbour-masters, &c.



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assistant harbour-masters for the port, and such other officers as may be thought necessary, and at-pleasure on the recommendation of the Commissioners may remove such harbour-master, assistant harbour-masters, or other officers; and such harbour-master and each of such  
5 assistant harbour-masters shall when acting be the port officer, or harbour-master of the port within the meaning of this Act, in the exercise of the powers conferred upon such port officer or harbour-master by any Act now in force when not inconsistent with this Act:

The provisions of the Public Service Act of 1895, and any Acts  
10 amending the same, shall not apply to any persons appointed under this section: Provided that nothing herein contained shall affect the rights accrued or accruing under the said Acts to any public servant whose services are transferred to the commissioners, and such public servants may continue to contribute to the superannuation account  
15 and shall be entitled to receive any payment, pension, or gratuity as if they were officers within the meaning of those Acts.

21. It shall be lawful for the harbour-master to give directions Powers of harbour-master.  
for all or any of the following purposes (that is to say):—

For regulating the time and manner in which any vessel shall  
20 enter into, go out of, or lie in the port, and the position, mooring, or unmooring, placing, or removing of any vessel within the same:

For regulating the manner in which any vessel shall take in or  
25 discharge cargo or any part thereof, or shall take in or deliver ballast.

Provided that it shall not be lawful for such harbour-master to direct that any vessel shall lie or be within any part where any Statute directs that no vessel shall lie or be, or to unmoor or remove from any part of the port duly appointed as a boarding, landing, or quarantine station  
30 any vessel moored or placed there under the authority of the Colonial Treasurer, or to moor or place any vessel alongside any quay, custom-house, station, or other place appropriated to the service of the customs.

22. The master of every vessel within the port shall regulate  
such vessel according to the directions of the harbour-master made in  
35 conformity with this Act; and any master of any vessel who, after the service on him of a notice in writing signed by the harbour-master, does not forthwith regulate such vessel according to such direction shall be liable to a penalty not exceeding five pounds.

Penalty on not complying with directions of the harbour-master.

23. If the master of any vessel within the port does not moor,  
40 unmoor, place, or remove such vessel according to the directions of the harbour-master in writing given to the said master, it shall be lawful for the harbour-master to cause such vessel to be moored, unmoored, placed, or removed according to the directions aforesaid, and to employ a sufficient number of persons for that purpose, and the  
45 expenses attending such mooring, unmooring, placing, or removing shall be paid by the master of such vessel.

Power of harbour-masters to remove vessels.

24.



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24. If any master of any vessel within the port or any person on board the same hinders the harbour-master or any person employed by him in mooring, unmooring, placing, or removing such vessel in manner aforesaid, such master or other person shall forfeit on conviction 5 for every such offence a sum not exceeding five pounds.

Penalty on master or person on board for obstructing harbour-master.

25. If any master or other person on board any vessel moored or fastened within the port does not upon demand of the harbour-master unloose or slacken the rope or chain by which such vessel is moored or fastened, or if there is no person on board of any such 10 vessel so moored or fastened, it shall be lawful for the harbour-master to unloose or slacken the rope or chain by which such vessel is so moored or fastened as aforesaid, and to cause, if necessary, a sufficient number of persons for the protection of the same to be put on board such vessel, and all expenses thereby incurred shall be paid 15 by the master of such vessel.

Harbour-master may slacken ropes.

*Actions against officers.*

26. All actions to be brought against any person for anything done under this Act shall be commenced within six months after the act complained of was committed, and no writ shall be sued out against, 20 and no copy of any process shall be served upon any person for anything done by him under this Act, until notice in writing of such intended writ or process has been delivered to him, or left at his usual place of abode, by the agent or attorney of the party who intends to cause the same to be sued out or served, at least one month before the suing out 25 or serving of the same. Such notice shall clearly and explicitly set forth the nature of the intended action and the cause thereof, and on such notice shall be endorsed the name and place of abode of the party intending to bring such action, and the name and place of business of his attorney or agent.

Actions against officers.

30 The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

Defendant may plead general issue.

No plaintiff shall recover in any such action if tender of sufficient amends has been made before such action was brought, or if 35 a sufficient sum of money has been paid into Court after the commencement of such action by or on behalf of the defendant.

And if the matter or thing complained of appears to have been done under the authority and in execution of this Act, or if any such action is brought after the time limited for bringing the same, or such 40 notice has not been given as aforesaid, the jury shall find or judgment shall be given for the defendant.



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PART III.

PROPERTY AND POWERS OF COMMISSIONERS.

*Vesting of property and general powers.*

27. There shall be vested in the commissioners upon trust for Lands &c., vested in commissioners.  
 5 the purposes of this Act the bed and shores of the waters of the port,  
 all land now vested in the Government within the boundaries of the port,  
 and the lands resumed, purchased, or reclaimed by the Crown in connec-  
 tion with or used for wharfage purposes as described in Schedule Two,  
 together with all light-houses, light-ships, leading lights and marks,  
 10 beacons, wharfs, cranes, engines, dredges, tugs, shipping appliances,  
 and all other the property of the Crown subject to the interest of any  
 persons in such land existing at the time of the passing of this Act :

Provided that the Governor may at any time vest in the  
 commissioners any further lands **the property of the Crown**, deemed to  
 15 be necessary, and may remove from the commissioners such lands as  
 may be found to be unnecessary for the purpose of carrying out the  
 provisions of this Act.

28. Upon the publication in the Gazette of a proclamation with- Lands withdrawn to vest in original owners.  
 drawing any lands from the commissioners under the provisions of the  
 20 next preceding section, the lands so described shall vest in the  
 persons who would be entitled to the same and subject to the like  
 limitations, powers, and authorities as if this Act had not passed. For  
 the purposes of this section, the word "persons" shall be deemed to  
 include the Crown, or any person or corporation entitled to hold land  
 25 on behalf of the Crown.

29. No lease or license in force at the commencement of this Leases and licenses existing at time of passing of this Act.  
 Act of, or relating to, any Crown land hereby vested in the commis-  
 sioners, shall be in any manner affected by this Act. Any moneys  
 payable after the said commencement, as the rent reserved in respect  
 30 of any such leases, may be recovered by the commissioners.

At the expiration of the term of any of the said leases or  
 licenses, it shall be lawful for the commissioners to renew or deal with  
 such leases or licenses on such conditions and terms as they may deem fit.

When the renewal of any such lease is refused, the commis-  
 35 sioners shall pay the leaseholder such compensation for improvements  
 as has been reserved by the lease.

30. The powers contained in sections sixty-three and sixty-four No rescission of any reservation of water frontage without consent of commissioners.  
 of the Crown Lands Act of 1884, and any enactments amending the  
 same, so far as they relate to lands within the port, are hereby con-  
 40 ferred on the commissioners.

Any consideration money for the exercise of such powers shall  
 be paid to the commissioners for the purposes of this Act :

Provided that no grant under either of the sections mentioned  
 shall issue without the consent of Parliament.



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30. (1) The commissioners, with the approval of the Governor, Reclamation. may, on the application of the proprietor in fee simple of land having frontage to the port, authorise such proprietor to reclaim any part of the port adjoining thereto :

5        Provided that no such reclamation shall be authorised which may interrupt or interfere with navigation :

10        Provided also that the application to reclaim shall be published once a week in the Gazette and in some daily newspaper published in Sydney for four consecutive weeks before such authority for reclama-  
tion is given, during which time any person may lodge a caveat with the Secretary for Lands against the giving of such authority, and all such caveats shall be considered before the required approval of the Governor is given.

15        The commissioners, in giving such authority to relaim, may give the same, subject to such terms and conditions as may appear desirable in the public interest, and in particular to the condition that, if such land or any portion thereof is resumed by the commissioners, no other compensation shall be payable than the value of any improvements upon the lands resumed, effected with the written  
20        approval of the commissioners first had and obtained, together with a repayment of the purchase money and of the cost of reclamation, or if the land resumed be a portion only of the land reclaimed, of a fair proportion of such purchase money and cost as aforesaid.

25        (2) In any case where such authority is given the Land Board for the Metropolitan District shall (subject to appeal by the applicant or the commissioners to the Land Appeal Court in the manner described by the Crown Lands Acts) appraise—

30        (a) the amount by which the value of the whole holding will be enhanced, by reason of the land to be reclaimed having been reclaimed and being held and enjoyed with the land held in fee simple ; and

35        (b) the amount of the estimated cost of the reclamation ; and the excess (if any) of such first-mentioned amount over such last-mentioned amount shall, within three months after a notice in the  
Gazette calling for the same has been published by the commissioners, be paid by the applicant to the commissioners, and in default of such payment the authority to reclaim may be declared to have lapsed, and the same shall thereupon become void and of no effect.

40        (3) The applicant shall, within such period as may be allowed for the purpose, complete the reclamation to the satisfaction of the commissioners, and upon the due completion thereof, the commissioners shall convey and assure to the applicant the land so reclaimed. The conveyance shall embody the terms and conditions subject to which the authority was given, or such of them as require  
45        to be so embodied.



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(4) If the reclamation be not completed to the satisfaction of the commissioners, or be not so completed within the aforesaid period, the commissioners may, by notification in the Gazette, declare the right to purchase the land, together with all moneys paid thereon, to be forfeited, and the same shall become forfeit accordingly; and upon such forfeiture the said authority to reclaim shall become void and of no effect, and any land which may have previously been reclaimed under such authority shall revert to the commissioners, freed and discharged from any right or claim of the applicant or any other person in or to the same.

31. All disputes between the commissioners and the Railway Commissioners, or any other Department of the Government, with respect to any such property, shall be referred to the Minister, whose decision shall be final and binding on all parties. Disputes to be settled by Minister.

32. It shall be the duty of the commissioners, according as they may think necessary, to dredge the port and keep it in fit and proper condition for navigation, and to prevent any filling or silting up of the channels or other waterways of the port: Provided that no dredging or deepening shall be performed within sixty feet of any private wharf, unless the owner thereof pays the expense of such dredging or deepening, except the dredging of deposits from storm-water channels. Commissioners to do certain work.

The commissioners shall keep or cause to be kept in fit and proper condition all public wharfs and quays, and dredge and deepen the port fronting the same, so as to be fit and serviceable for the mooring of vessels, and for the loading and discharging of the cargoes thereof, and also keep in proper order and condition all other property vested in them.

33. The exclusive management and control of the port and of the shipping, light-houses, light-ships, leading lights and marks, buoys, beacons, moorings, wharfs, docks, piers, jetties, ferries (except the steam-punt running from the Spit in Middle Harbour), landing-stages, slips, or platforms, and the preservation and improvement of the port generally, are hereby vested in the commissioners. Management of port and shipping vested in the commissioners.

34. All mooring-chains laid down within the port and being the property or under the control of any Government department shall be transferred to and the property in the same is hereby vested in the commissioners, and the commissioners are hereby required to maintain the same in good order and repair, and also to remove the same to other more convenient situations, and to lay down additional mooring-chains as and when they may think desirable. Mooring-chains vested in commissioners.

35. After the commencement of this Act no mooring-chains shall be put down or placed within the port without the permission of the commissioners previously obtained; and every such mooring-chain so put down or placed shall be so continued only during the pleasure of the commissioners. No mooring-chains to be laid down without permission of the commissioners.

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of the commissioners; and the commissioners may at any time, by giving one week's notice in writing, require such mooring-chains to be removed; and in case default is made in complying with such notice, such mooring-chain may be treated by the commissioners as  
 5 a public nuisance, and removed accordingly.

36. The commissioners may agree with any person being the owner of any private mooring-chains for the purchase of such mooring-chains, and may pay to such person such purchase-money or compensation as may be agreed upon.

Commissioners may purchase private mooring-chains.

10 *Resumption and purchase of lands.*

37. (1) It shall be lawful for the commissioners, subject to the approval of the Governor, and subject to sufficient funds for the purpose being voted by Parliament, but without further or other authority than this Act, to resume any wharfs, jetties, lands, buildings, enclosures or  
 15 premises, which may be required for the purpose of harbour improvements and for the development of trade (such lands not being the property of the Crown) in accordance with the provisions hereinafter mentioned. The commissioners shall have power to enter upon and survey any lands within their jurisdiction.

Commissioners may resume lands.

20 (2) The commissioners shall cause a notice of the resumption of any land required by them for the purposes aforesaid, to be published in the manner provided in the Act forty-fourth Victoria number sixteen.

Service of notice.

(3) Upon the publication of such notice, the land therein described shall for the purposes aforesaid, and subject to the provisions of this Act, be vested in the commissioners for an absolute estate in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights of way, or easements whatsoever.

Lands vested on service of notice.

30 (4) The owner of any portion of lands resumed, or the person who, but for the provisions of this Act, would have been such owner, shall be entitled to receive compensation for the land so resumed, and the amount of such compensation shall be ascertained in accordance with the provisions of the Lands for Public Purposes  
 35 Acquisition Acts, being the Acts of the forty-fourth Victoria number sixteen, and forty-fifth Victoria number twenty-six. For the purpose of ascertaining and dealing with such compensation, and for other purposes subsidiary thereto, the enactments hereinafter specified are declared to be incorporated with this Act, viz.:—

Compensation for resumed lands.

40 (a) As to conversion of the estates of owners of lands into a claim to compensation,—Section eleven of the Act forty-fourth Victoria number sixteen.

(b) As to notice of claim for compensation and abstract of title,—  
 45 Section twelve of the Act forty-fourth Victoria number sixteen, and First Schedule thereto, as amended by section three of the Act forty-fifth Victoria number twenty-six.

(c)



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- (c) As to procedure after receipt of notice of claim, and the institution of proceedings in the Supreme Court,—Sections thirteen and fourteen of the Act forty-fourth Victoria number sixteen.
- 5 (d) As to the nature of the issue in actions for compensation, verdict and costs, the payment of compensation, the mode of assessing compensation, and the obligation of the party claiming payment to make out a title,—Section two of the Act forty-fifth Victoria number twenty-six, section sixteen of
- 10 the Act forty-fourth Victoria number sixteen, and section twenty-four of the Public Works Act of 1888, except that the interest payable under the said section sixteen shall be four per centum instead of six per centum.
- 15 (e) As to procedure on registration or transfer,—Section twenty-four of the Act forty-fourth Victoria number sixteen.
- And in order to carry out the intention of this section the words “this Act” whensoever occurring in any of the sections so declared to be incorporated herewith shall be held to include this present Act, and the words “under the sixth section of this Act” in section twenty-four
- 20 of the Act forty-fourth Victoria number sixteen shall be held, for the like purpose to refer to this present section of this Act, and the words “The Constructing Authority” shall be held to refer to the commissioners.
- (5) The several sections of the Public Works Act of 1888, Incorporation of certain provisions of Public Works Act of 1888.
- 25 hereinafter specified, together with the respective powers, authorities, duties, liabilities, obligations, and other the provisions therein contained are hereby declared to be incorporated with, and embodied in this Act to the intent that the same may be applied as fully and effectually to, and in respect of, the lands resumed by this Act as if the said sections
- 30 had been specifically enacted herein: Provided that, wheresoever in any section so incorporated the words “Constructing Authority” occur, there shall, for the purposes of this Act, be substituted in lieu of such words, the expression “commissioners;” the expression “authorised work,” wheresoever occurring in any such section shall be
- 35 held to refer to the work authorised by this Act; and the words “this Act” shall similarly be held to refer to this present Act. The following are the sections of the said Public Works Act so declared to be incorporated herewith—
- 40 (a) As to the deposit of compensation money in certain cases with the Master in Equity, and the application and investment thereof; as to payment of such money in certain cases to trustees, or to the parties themselves, the exoneration of the Minister in respect thereof after payment, the presumption of ownership, and the payment of costs,—Sections sixty-two
- 45 of to seventy-two, both inclusive.
- (b) As to the procedure by the Minister in case the owner or occupier of any lands resumed by this Act shall refuse to give



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give up possession thereof, or hinder the Minister from entering upon, or taking possession of the same,—Section seventy-seven.

- 5 (c) As to the purchase or redemption of the interests of mortgagees, and the deposit of principal and interest due on mortgages with the Master in Equity, the procedure to be observed when the mortgaged lands are of less value than the mortgage debt, and where part only of lands in mortgage is taken,—Sections eighty-one to eighty-six, both inclusive.
- 10 (d) As to the release of lands from rent charges and other incumbrances, and the procedure thereon,—Sections eighty-seven to ninety, both inclusive.
- 15 (e) As to the apportionment of rent where lands so resumed are taken under lease, and as to compensation to tenants,—Sections ninety-one to ninety-four, both inclusive.

20 **38.** In addition to the power of resuming land conferred by the last preceding section the commissioners may purchase from any person who may be willing to sell the same in fee simple, or for any less estate or interest, any land which the commissioners may require for any of the purposes aforesaid, subject to the approval of the Governor, and provided that the necessary funds are voted for the purpose by Parliament.

Power to purchase land for the purposes of this Act.

*Miscellaneous powers in regard to land.*

25 **39.** All lands vested in the commissioners by this Act, or which may hereafter be purchased or acquired by them pursuant to this Act, shall be exempt from any land tax and any rate or tax which the council of the city of Sydney or any municipal council might but for this section have imposed or levied thereon; but nothing herein shall preclude the council of the city of Sydney or any municipality from levying and collecting rates upon houses and buildings erected on such lands and leased and occupied for private purposes and by persons other than the commissioners or their officers and servants.

Lands vested in commissioners free from municipal rates.

30 **40.** The commissioners may subject to the approval of the Governor, contract for the lease of, and may lease for such considerations as they may deem reasonable, ~~and by any deed under their corporate seal may demise to the lessees thereof,~~ any superfluous lands in such manner as they may deem most advantageous; and such contracts and leases shall be valid and effectual to all intents and purposes.

Power to sell or lease certain lands not wanted.

40 **41.** The commissioners ~~with the approval of the Governor,~~ may grant leases of any land vested in them by this Act upon such rent reserved and such conditions, and for such term, not exceeding twenty-one years, as they may think fit, as yards or sites for ship building, boat building, storing of timber, storing of coal, storing of merchandise or other property, and erection of workshops or foundries connected with shipping.

Lands vested may be leased for certain purposes.



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42. Whenever the commissioners during the currency of the term of any existing lease or license to occupy any of the land vested in them, or of any lease granted by them under the authority of this Act, desire to take possession of the said land or any part thereof, they may serve on the person to whom the lease or license has been granted, his heirs, executors, administrators, or permitted assigns, and in the manner prescribed herein for the service of a summons, a notice that they require possession; and if within three months from the service of the notice, possession is not given to the commissioners, or their agents, the commissioners may issue their warrant to the Sheriff requiring him to deliver possession of the land, whereof possession is so required, to the person appointed in the warrant to receive the same, and, upon receipt of such warrant, the Sheriff shall deliver possession of the land accordingly, and expel and remove therefrom all persons then in possession without any legal process whatsoever, and as effectually as if he were acting under a writ of *habere facias possessionem* issued on judgment in ejectment, and the costs accruing by reason of the issuing and execution of the warrant shall be settled by the Sheriff, and shall be paid by the person failing or refusing to give possession; and the amount of costs so settled shall be deducted and retained by the commissioners from the compensation, if any, payable for dispossession under the powers hereinafter contained; or if no such compensation is payable, or if the amount of the said costs exceeds such compensation, the said amount or such excess if not paid on demand shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

Power of commissioners to resume possession of the land the subject of a lease or license.

43. Whenever any lessee or licensee, his executors, administrators, or permitted assigns, is or are dispossessed under the powers by this Act conferred on the commissioners, the commissioners shall pay to him or them compensation therefor, and the amount thereof shall be settled in the manner prescribed in the ~~Public Works Act of 1888~~, **Lands for Public Purposes Acquisition Act**, and any Act amending the same.

Commissioners to pay compensation for dispossessing.

*Work to be done and duties to be performed by the commissioners.*

35 44. All works constructed and carried out under the provisions of this Act shall be constructed and carried out by the ~~Minister or~~ by the commissioners as may be determined by Parliament and shown by the estimate submitted to Parliament.

Works to be carried out by Minister or commissioners.

40 45. All works constructed under the provisions of this Act, and all salaries payable under this Act, and all expenses of carrying out the provisions of this Act, shall be paid for by money voted for that purpose by Parliament. And such works may be carried out subject to sufficient funds being voted by Parliament, but without further or other authority than this Act.

Funds for purposes of Act.



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46. (1) The commissioners may construct and enclose any wharf, dock, pier, jetty, landing-stage, slip, or platform, or remove, alter, or repair the same. Commissioners may construct wharfs, sheds, &c.

(2) They may also authorise the construction of any wharf, dock, pier, jetty, landing-stage, slip, or platform, tramway, railway, or hoisting cranes, shears, or engines, on such waterside frontages or on such land as may be subject to any lease or license granted by them.

(3) They may construct such depôts and sheds for the reception of goods, and may construct and erect such steam-engines, cranes, hoisting and weighing machines, and other apparatus for facilitating the loading and discharging or the masting or unmasting of vessels or the testing of chains and anchors, and provide such other conveniences upon or near the wharfs, docks, piers, jetties, landing-stages, slips, or platforms as they may think expedient for the trade of the port, and may make reasonable charges for the use of any such depôt, sheds, steam-engines, cranes, hoisting and weighing machines, and other such apparatus and conveniences as aforesaid.

47. (1) The commissioners may, for the purpose of maintaining and improving the navigation of the rivers and channels within the port, dredge, cleanse, and scour the said rivers, and alter, deepen, cleanse, scour, dredge, cut, enlarge, and otherwise alter and improve the bed of the said rivers and channels; and may reduce or remove any banks or shoals whatsoever within the said rivers and channels; and may abate and remove all impediments, obstructions, and annoyances, and all nuisances and abuses whatsoever in the said rivers and channels, or on the banks and shores thereof, which may now or at any time hereafter be injurious to the said rivers and channels, or obstruct, or tend to obstruct the free navigation thereof: Provided that nothing herein contained shall extend to any sewer duly authorised and constructed by any department of the Government. Commissioners empowered to dredge, cleanse, and scour rivers, &c.

(2) They may remove, scour, and take away any shoal, mud-bank, or other accumulation which impedes the navigation of the port, and may shorten any bend or remove any angle in the course of the rivers within the port. Power to remove any shoal, mud-bank, or accumulation in the port, and shorten bends of the river.

(3) They may cut the banks of the rivers within the port for the purpose of making, enlarging, or repairing any dock or canal, or any drain, sewer, or water-course, or altering, laying down, or repairing any suction or other pipe, or for any other purpose whatsoever, and may authorise any person to cut the banks for any of the purposes aforesaid, under such restrictions and upon such terms and conditions as they may think proper to impose. Banks may be cut.

(4) They may place and lay down or take up within the port such buoys and beacons as may be necessary and convenient for the navigation of the port. oys and beacons.



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48. The commissioners may ~~subject to the approval of the~~ <sup>Commissioners may</sup> ~~Minister,~~ enter, by their corporate name, into contracts with any <sup>make contracts, &c.</sup> persons for the execution of any work authorised by this Act to be done by them, or which they may think proper to do, or to direct to be done, under or by virtue of the powers conferred by this Act, or for furnishing materials or labour, or for providing proper engines or other power, or for any other matters and things whatsoever necessary for enabling them to carry the purposes of this Act into full and complete effect, in such manner, and upon such terms, and for such sum of money, and under such stipulations, regulations, and restrictions as they may think proper.

49. The powers hereby granted to the commissioners to make <sup>Contracts by the</sup> contracts may lawfully be exercised as follows (that is to say) :— <sup>commissioners how</sup> <sup>to be entered into.</sup>

15 With respect to any contract which if made between private persons would be by law required to be in writing and under seal, the commissioners may make such contract in writing in the corporate name of the commissioners under their common seal, and in the same manner may vary or discharge the same.

20 With respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith, the commissioners may make such contract in writing in the corporate name of the commissioners signed by the secretary and by any two of the commissioners, and in the same manner may vary or discharge the same.

25 And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the commissioners and all other parties thereto, their successors, heirs, executors, or administrators, as the case may be; and on any default in the execution of any such contract, either by the commissioners or by any other party thereto, such actions or suits may be brought either against or by the commissioners in their corporate name as might be brought had the same contract been made between private persons only: Provided that no contract, the amount whereof exceeds five hundred pounds, shall (except in cases of emergency) be made, except after public tender of which public notice shall be given, but the commissioners shall not be bound to accept the lowest tender.

30 50. It shall be lawful for the commissioners, with the approval <sup>Commissioners may</sup> of the Minister, at a meeting specially called for that purpose, of which <sup>compound for breach</sup> meeting three days' notice shall be given, to compound and agree with <sup>of contracts.</sup> any person who has entered into any contract in pursuance or under the authority of this Act, or against whom any action or suit has been brought for any penalty contained in any such contract or in any bond or other security for the performance thereof, or for or on account of any



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any breach or non-performance of any such contract, bond, or security for such sum of money or other recompense as the commissioners may think proper.

51. The commissioners may appropriate particular wharfs, Commissioners may grant exclusive right to portions of wharfs, &c.  
 5 docks, piers, jetties, landing-stages, or platforms, or portions thereof respectively to the use of steam vessels, either exclusively or in conjunction with sailing vessels, or to the use of any vessels engaged in particular trades, or to the use of any other vessels or class of vessels, or under any other circumstances which may render such appropriation  
 10 expedient.

52. The commissioners may, upon such terms and conditions, Powers to set apart portions of works for special purposes.  
 and upon payment of such rents or other sums of money, and subject to such restrictions and regulations as they may think proper, lease or set apart and appropriate any particular portion of any wharf, dock,  
 15 pier, jetty, landing-stage, or platform, shed, warehouse, or other works, with the appendages thereunto, for the exclusive accommodation of any person engaged in carrying on any particular trade who is desirous of having such exclusive accommodation for the reception of the vessels and goods belonging to or employed and conveyed by them. All  
 20 persons to whom such exclusive accommodation as aforesaid is afforded, and their vessels, crews, and servants, and other persons employed by them or under their control, shall be subject to regulations to be made by the commissioners.

53. No person shall add to or alter any wharf, dock, pier, jetty, No erection without consent of commissioners.  
 25 landing-stage, slip, or other work now being upon the bed or shore of the port, or shall erect, build or make any embankment, or any erection, building, or work in or upon the bed or shore of the port, or drive any piles thereon or therein without the license of the commissioners.

30 54. The commissioners, subject to such restrictions as the Governor may think fit, upon the payment of a fair and reasonable consideration, and subject to such regulations and restrictions as they may think proper, may grant licenses for the formation of such  
Commissioners empowered to grant licenses for the formation of recesses or docks and wharfing.  
 35 recesses or docks, wharfs or quays, and the driving of such piles and other works as may be required for the convenient use, protection, and improvement of premises, and the placing and mooring of vessels in such line, and at such levels as may appear to them requisite for the above purposes, without injurious interference with the navigation of the port or its future improvement.

40 55. The Commissioners, upon such terms and conditions as they think fit, may grant licenses for the erection by the owners  
Commissioners may grant licenses for the erection of piers and jetties.  
 or occupiers of lands adjoining the port at any convenient places, of piers or landing-places of such form and construction as the  
 45 commissioners consider most advantageous to the public, and as causing the least obstruction to navigation, and for the driving of piles and the formation of wharfing-ways and other conveniences to the adjoining premises.

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The Commissioners may order the form and construction of such piers or landing-places, and the position of such piles, and the mode of forming such wharfing-ways and other conveniences to be altered by the owners of or persons licensed to erect, drive, or  
5 form the same, and may also order any such piers or landing-places, piles, wharfing-ways, and other conveniences to be removed and taken away by the owners thereof, or the persons licensed to erect, drive, or form the same; and in case any such pier, landing-place,  
10 piles, wharfing-way, or other convenience is not altered or removed within seven days after notice from the commissioners to alter or remove the same has been given to the owner thereof, or to the person licensed to erect, drive, or form the same, such pier, landing-place, piles, wharfing-way or other convenience, may be removed by the commissioners at the expense of such owner or person.

15 **56.** The commissioners may grant to the owner or occupier of any land fronting and immediately adjoining any portion of the port a license to make any wharf, dock, basin, pier, jetty, landing-stage, slip, or platform, or any embankment wall, or other work immediately in front of his land and into the body of the said port, upon  
20 payment of such fair and reasonable consideration and subject to such other conditions and restrictions as the commissioners may think fit.

Owners of land may  
embank with consent  
of commissioners.

**57.** If any vessel is sunk or stranded within the port, the commissioners may forthwith seize and attach such vessel and any goods therein until security is given to the satisfaction of the com-  
25 missioners for the due removal of such vessel and goods; and if the owner, master, or agent does not provide such security or does not remove and take away such sunk or stranded vessel, or the wreck thereof, within such time as the commissioners, in writing, require, the commissioners may then raise, destroy, remove, or take away  
30 such wreck of any vessel that is sunk or stranded, and is in their judgment an obstruction to the safe and convenient navigation and use of the port; and in case the owner, master, or agent of such vessel, or other obstruction, refuses or neglects to pay the charge of raising, destroying, removing, or taking away such vessel, wreck,  
35 or goods for the space of three days after demand, or in case any such owner, master, or agent cannot be found, then the commissioners may sell such vessel, wreck, and goods, and out of the proceeds of such sale retain the expense incurred in raising, destroying, and removing such vessel, wreck, and goods, and the charges of sale, rendering the over-  
40 plus to the person entitled to the same; and if from such proceeds sufficient to pay all the aforesaid charges is not recovered, then the amount of any deficiency shall be a lien or charge on any vessel, goods, or money belonging or payable to the owner of any such vessel so sunk or stranded as aforesaid, which may be then, or at any time  
45 within the period of twelve calendar months thereafter in the Colony

Power to remove  
wrecks, &c.

of



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of New South Wales in the hands of any agent or other person on behalf of any such owner, subject and without prejudice to any prior lien or charge in favour of any other person. The lien or charge hereby given to the commissioners may be enforced by proceedings  
5 in the Supreme Court to be instituted by the commissioners against such owner, agent, or other person, and service of all process in any such suit shall be held good and binding on any such owner if such service has been duly effected on any such agent or other person :

Provided that in no case the amount for which such owner is  
10 liable, or for which such lien is claimed, shall exceed the amount of the value of the vessel and the freight then due ; and such value shall be estimated at the rate of eight pounds per ton of such vessel's tonnage :

Provided further that when the sinking or stranding of such  
15 vessel is the result of accident or of causes beyond the control of such owner (of which the finding of the Court of Marine Inquiry shall be conclusive evidence), such owner shall not be liable for any portion of the cost incurred in raising, destroying, or removing such wreck which may exceed the sum realised by the sale of the wreck of such vessel.

58. It shall be lawful for the commissioners, and they are  
20 hereby directed when any obstruction impedes the navigation and use of the port or any part thereof (of which obstruction the commissioners shall be the sole judges), to require the owner or occupier of such obstruction, by notice given or sent to him, to remove such obstruction as aforesaid within a time to be stated in  
25 such notice ; and should such owner or occupier fail, neglect, or refuse to remove the obstruction stated in such notice, the commissioners shall remove the same, and the expenses of so doing shall be repaid by the owner of the same, and the commissioners may detain the materials of such obstruction for securing payment of such  
30 expenses, and on non-payment of such expenses on demand may sell such materials, and out of the proceeds of such sale pay such expenses, rendering the overplus, if any, to the owner on demand. If the proceeds of the sale are not sufficient to pay the said expenses, or if the commissioners, without proceeding to such sale, so determine, the  
35 commissioners may sue the said owner or occupier for the recovery of such expenses.

59. (1) The commissioners shall make and maintain proper  
roads and approaches to all wharfs, docks, piers, jetties, landing-  
stages, slips, platforms, depôts, and sheds that are now or may  
40 hereafter be erected on the lands vested in them ; and they shall cause such wharfs, docks, piers, jetties, landing-stages, slips, platforms, depôts, and sheds, and the roads and approaches thereto, to be kept in good repair, and well and sufficiently lighted, watched, and cleansed.

(2) The commissioners may appoint a sufficient number  
45 of persons to preserve order on or at such wharfs, piers, jetties, landing-stages  
Persons may be appointed to preserve order, &c., at piers.



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landing-stages and platforms, and the avenues and approaches thereto, and to prevent the intrusion thereon of improper persons who have no *bona fide* intention of embarking on board any vessel from such wharfs, docks, piers, jetties, landing-stages, or platforms, and to remove  
 5 any persons who may unnecessarily linger or loiter on or about such wharfs, docks, piers, jetties, landing-stages, or platforms, and to assist any vessel in making fast to such piers or landing-places.

60. The commissioners may remove any broken, dangerous, or  
 10 useless piles or mooring chains and other nuisances, and may order the removal or shortening of any waterways, causeways, stairs, or other projections injurious to the navigation of the port.

Broken piles, &c., to be removed.

61. The commissioners may, if they think fit, grant licenses  
 for the supply and removal of ballast, and for the supply of water to shipping, by means of water tanks, subject to such regulations as  
 15 the commissioners may make. And no person shall dredge for ballast in the bed of the port, or take or supply any ballast within the port, or supply water to shipping as aforesaid, without a license from the commissioners; and any person offending against this section shall be liable to a penalty not exceeding twenty pounds.

Licenses for supply and removal of ballast, &c.

20 62. The commissioners may by notice in writing prohibit any person from raising or taking any ballast or any materials for ballast in any place or places in or from which the raising or taking of ballast or materials for ballast may, in the judgment of the commissioners,  
 25 be injurious to the navigation of the port, or to the due execution of the works to be directed by them; and any person who, after the delivery to him of any such notice as last aforesaid, raises or takes any ballast or materials for ballast in contravention of any such notice shall be liable to a penalty not exceeding twenty pounds.

The commissioners may prevent ballast from being taken in places where its removal might be injurious to the navigation.

30 63. Subject to the provisions of this Act the commissioners may demand and take as consideration for any license granted by them such fees, either in gross, or by annual or other periodical payments, as the commissioners may, by their regulations determine.

Power to demand fees for licenses.

35 64. The commissioners may purchase, provide, and maintain all such apparatus, matters, and things as may appear to them to be necessary to assist in searching for drowned persons and restoring animation to persons apparently drowned, and to employ and reward assistants therein in such manner as to the commissioners may seem expedient.

Humane apparatus and assistance may be provided.

40 65. The commissioners may purchase and maintain any such appliances, matters, and things as may appear to them to be necessary for the purpose of extinguishing any fire on vessels, or on any property vested in them.

Fire-extinguishing apparatus may be provided.

45 66. The commissioners shall, on the thirtieth day of June and thirty-first day of December in every year, render and deliver to the Minister a true and correct schedule containing full particulars of all sales,

Annual statement of accounts of all moneys received for sales, &c., of bed of port to be sent to the Minister.



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sales, leases, grants and licenses for docks, recesses, beds for boats or barges, wharfs, piers, landing-places, piles, mooring-chains, or works of any description of, in, or upon any portions of the said lands or bed or shores of the port, or any encroachments, embankments, and inclosures thereupon, and also a true and correct account of all sums of money which they or any person or persons by their order or to their use have received during the half-year then ending on the thirty-first day of December immediately preceeding for or in respect of any such sales, leases, grants, and licenses, and for or in respect of any permission, and of all rents, revenues, and proceeds of what nature or kind soever; the said accounts to specify the particular source from which all and every such sums of money, rents, and profits have been derived, and to be from time to time verified as being true and correct accounts by a statutory declaration in writing under the hand of the treasurer of the commissioners.

67. The commissioners may construct and erect public baths, and charge such fees for admission thereto or lease the same as they may determine. Power to erect public baths.

PART IV.

RATES, &c.

68. (1) The commissioners shall demand, collect, and receive in respect of all vessels berthed at any wharf, dock, pier, jetty, landing stage, slip or platform vested in the commissioners, or in respect of all goods, merchandise, and things whatsoever (except goods belonging to Her Majesty's Government and passengers' luggage) shipped on or unshipped from any vessel (whether such goods, merchandise, or things are landed or not), so berthed wharfage and tonnage rates, according to the provisions contained in the Wharfage and Tonnage Rates Act of 1880 and Acts amending the same, which Acts are, *mutatis mutandis*, hereby incorporated with this Act, so far as the said Acts relate to the port of Sydney, subject to the provisions hereinafter mentioned; and all the powers therein contained are hereby conferred upon the commissioners: Provided that goods, merchandise, and things unshipped from any vessel to any other vessel for conveyance to another port, shall not be subject to any wharfage if a transshipment entry in respect thereof is duly passed at the Custom-house within forty-eight hours after the time at which the discharging vessel has reported at the said Custom-house. And until the commissioners are appointed otherwise provide, the rates to be demanded, collected, and received, shall be those in force at the passing of this Act: Provided that the Governor may make regulations for the remission, exemption, or reduction of wharfage rates, in such cases and subject to such conditions as he shall deem advisable. Power to collect tolls and rates and charges.



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(2) The words "Governor with the advice of the Executive Council" shall, wherever they occur in the said Acts, be read as if the same were "commissioners, with the approval of the Governor." And the words "Colonial Treasurer" shall be read as if the same were the word "Minister."

69. The commissioners may, by regulation approved by the Governor, alter, raise, and lower at discretion any wharfage or tonnage rates, which the commissioners are authorised to demand, collect, and receive under this Act: But such rates shall not exceed the amounts provided for in the said Acts and in the Second Schedule of the Wharfage and Tonnage Rates Act of 1880:

Provided that, in lieu of the wharfage rates in the said Schedule mentioned, the commissioners may charge wharfage rates by measurement or weight, not exceeding four shillings per ton dead weight or three shillings per ton measurement.

70. It shall be lawful for the commissioners to demand, collect, and receive in respect and for the use of any of the property of the commissioners such tolls, rates, and charges as the commissioners may determine and appoint by regulations under this Act.

71. The collection of tolls, rates, and charges authorised by this Act shall be prescribed by regulations under this Act; and for the convenience of such collection the Colonial Treasurer may, if he thinks fit, provide, at the cost and charges of the Commissioners, in the public office or long room of the custom house, accommodation for any officer or officers whom the commissioners may direct to receive and collect such tolls, rates, and charges.

72. The commissioners may, when default is made in the payment of any tolls, rates, or charges in respect of any goods (first paying the customs duties and dues, if any), retain and sell the said goods, or any part thereof; and after reimbursing themselves the amount of such duties and dues, the commissioners shall retain and pay in the first place the tolls, rates, and charges so unpaid as aforesaid, including the expenses of such sale, and in the next place the freight due on such goods (in case the commissioners have received written notice that such freight has not been paid), rendering the surplus (if any), and also such of the said goods as remain unsold (the rates due in respect whereof having been discharged as aforesaid) to the person entitled thereto on demand. In lieu of selling such goods, or notwithstanding such sale, if the proceeds of such sale are insufficient, the commissioners may, by action of debt in the Supreme or a District Court, recover the amount of such tolls, rates, charges, and expenses, as are due to them.



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## PART V.

## FINANCE.

73. The Minister shall, as soon as possible after this Act comes into operation, cause a list to be made of all works, property, and improvements which are by this Act vested in the commissioners as aforesaid. And the Minister shall determine the value at the date of such vesting of such works, property, and improvements to be charged against the commissioners.

Minister to declare  
value of property  
vested in commis-  
sioners.

74. After such determination of such value, the Minister shall, in the month of January in each year, cause a list to be made of the cost of all works, property, and improvements constructed, and the proportionate cost of works in course of construction, or acquired by the commissioners during the preceding year.

Interest on  
subsequent works.

75. All tolls, rates, rents, charges and other sums of money levied or collected by the commissioners shall be collected and received by them or their authorised agents, for the use of Her Majesty, and shall be paid into the Treasury under the provisions of the Audit Act, 1898, and shall in each year be chargeable with such sum, being not less than three and a half and not more than four per centum per annum, as the Minister may from time to time fix, on the value of such works, property, and improvements, so determined as aforesaid, and the cost of all works, property, and improvements constructed or acquired by the commissioners, together with the fees, salaries, and expenses of administering this Act; and so far as funds are available a further sum equal to three and a half per centum per annum on such value and cost to form a sinking fund to pay off any loans contracted in respect of all such and subsequent works, property, and improvements, according as the Governor may think fit; and the balance shall be carried to the Consolidated Revenue Fund.

Interest to be paid  
thereon.

76. The commissioners shall cause books to be provided and kept, and a true and regular account to be entered therein, of all sums of money received by them under this Act, and of the cost of all works, property, and improvements vested in them, and of all payments made by them under the provisions of this Act, and of the salaries and maintenance of the officers and servants. All such books shall be open to the inspection of the commissioners and the Auditor-General, and any person authorised to inspect the same by the Minister or the Auditor-General, and all such persons may take copies or extracts therefrom. And any clerk or other person having the custody of the said books, who does not on demand permit any person aforesaid to examine the said books and take such copies or extracts therefrom, shall forfeit and pay for every such offence a sum not exceeding five pounds.

Sinking fund to be  
formed.



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77. The accounts of all moneys received and disbursed by the commissioners shall be audited at least once in every year by the Auditor-General, who shall have, in respect to such accounts, all the powers conferred on him by the Audit Act, 1898, in respect of public accountants; and the commissioners shall once at least in every year furnish to the Governor a true copy of the accounts so audited as aforesaid, together with a particular statement of all moneys received by the commissioners, and of all expenditure incurred by them; and copies of such accounts and of such statement shall be laid before both Houses of Parliament, if then sitting, or if not then sitting, at the next ensuing Session thereof.

Accounts to be audited and furnished.

## PART VI.

## REGULATIONS.

78. All rules and regulations legally made under the Wharfrage and Tonnage Rates Act of 1880 and any Act amending the same shall, in so far as they contain nothing inconsistent with this Act, remain in force within the port until repealed by regulations under this Act, or until others have been enacted in lieu thereof by the commissioners, but so much as may be inconsistent with this Act is hereby repealed.

Existing regulations to have force until repealed.

79. The Governor may make regulations for and relating to the following subjects:—

Regulations by Governor.

(a) The cases in which wharfrage rates may be remitted, exempted, or reduced.

(b) The formation of a sinking fund and its application in pursuance of this Act.

80. The commissioners may make regulations for and relating to the following subjects:—

Regulations by commissioners.

(a) The appointment of the place and hour of their meetings, and the management and conduct of business thereat.

(b) The control, supervision, and guidance of all officers subject to their control and the control and management of all property vested in or belonging to the commissioners.

(c) The mode of leasing and licensing under this Act.

(d) The construction of wharfs, docks, piers, jetties, or embankments, and of sheds thereon; of canals, landing-stages, slips, platforms, tramways, or hoisting cranes, shears, or engines.

(e) The dredging, cleansing, and scouring the rivers within the port, and the improving the bed or channel thereof; and abating and removing wrecks, impediments, obstructions, and nuisances in the port, or to the navigation thereof; and the shortening any bend, or removal of any angle in the course of the rivers.

(f)



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- (f) The management and mode of making contracts by the commissioners and the performance of the same.
- (g) The supply of, and all matters relating to, ballast water for shipping, and the use of steam hoists on wharfs or jetties within the port.
- 5 (h) The improvement and management of the port.
- (i) The imposing, levying, and receiving of all tolls, rates, or charges.
- 10 (j) The regulation and government of ferry steamers and boats within the port.
- (k) The anchoring, mooring, riding, and fastening of vessels, and the stiffening, removal, and control of vessels, whether under way, at anchor, at a wharf, pier, jetty, or landing-place, afloat or aground, hove down, or hauled up, or in dock within the port.
- 15 (l) The regulation and control of the use of sanitary conveniences, lights, and fire on board any vessel within the port.
- (m) The manner of boiling or melting pitch, tar, resin, turpentine, or any inflammable substance within the port.
- 20 (n) The mode of inquiry into any charges brought by or against any person subject to the Harbour Trust Commissioners.
- (o) The communication between wharfs, docks, piers, jetties, landing-stages or platforms and vessels within the port by means of gangways or otherwise.
- 25 (p) The imposing of penalties for any breach of any regulations by this Act authorised to be made, not exceeding for any offence the sum of one hundred pounds, nor less than one pound.
- (q) The erection of baths and bath-houses within the port, and leasing the same; making excavations for salt-water baths; and any fence or enclosure necessary for the protection or privacy of the same.
- 30 (r) The repeal of any regulations made by the Governor under the Wharfage and Tonnage Rates Act of 1880 and any Act amending the same, and the making of any such regulations as the Governor might make under those Acts.
- 35 (s) Any other purpose relating to the convenience of shipping or of the public within the port, or for any local enterprise or object which the Governor may approve.
- 40 And generally for duly administering and carrying out the powers vested in the commissioners by this Act.

Any breach of such regulations for which no specific penalty is therein provided shall be punishable by a fine not exceeding one hundred pounds. Breaches of regulations punishable by fine.



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81. Every regulation shall, upon approval of the Governor, and notification in the Gazette, have the force of law; and shall be laid before Parliament within fourteen days after such notification, if Parliament be then in Session, and if not then within fourteen days after the commencement of the next ensuing Session.

Regulations to be approved by Governor and published in Gazette.

## PART VII.

## MISCELLANEOUS.

82. Nothing contained in this Act shall be construed to repeal any provision of any Act relating to any Government or other railways, to affect the rights, powers, privileges, and obligations conferred or imposed by any such Act; or to repeal or affect any provisions of the Navigation Act of 1871, or of any Act amending the same, save and except where the express provisions of this Act are inconsistent therewith, or where such provisions are hereby repealed.
83. No legal proceedings of any nature shall be instituted or brought against the commissioners for or in respect of not dredging, cleaning, or scouring the port, unless the Attorney-General signifies in writing his consent to the bringing or instituting of such proceedings, and on such conditions as to security for costs as he may think fit.
84. (1) The owner of every vessel shall be, and he is hereby made, liable for all trespasses, damages, spoil, or mischief done by such vessel or by any of the boatmen or other persons belonging to or employed in or about the same by any means whatsoever to any of the property or effects of the commissioners or the banks or other works erected, maintained, or repaired under the provisions of this Act; and the owner of every such vessel shall for every such trespass, damage, spoil, or mischief so committed as aforesaid, upon conviction of the person so committing the same before any justice, on the oath of any credible witness, or on the confession of the party offending, pay to the secretary of the commissioners such damages and compensation as may be ascertained, fixed, and determined by such justice, together with all costs, charges, and expenses attending such conviction, provided that such damages and compensation shall not exceed the sum of twenty pounds besides the costs of such conviction; and in case such damages or compensation and costs are not paid on demand the same shall be recoverable in the same manner as any penalty is by this Act directed to be recovered, but in case such damages exceed the sum of twenty pounds the said owner may be sued by the commissioners for such damages or compensation.

Act not to repeal Railway or Navigation Acts.

Consent of Attorney-General necessary before proceedings instituted against commissioners.

Owners accountable for damage done by boatmen to works or property of the commissioners.



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(2) Every such boatman or other person so offending shall be liable for, and shall repay all damages and compensation so ascertained, fixed, determined, and recovered as aforesaid, with all the costs of levying and recovering the same to his master or such owner; and in case of non-payment thereof on demand and on oath made by such master or owner of the payment made by him of such damages, compensation, and costs, and that the same have been demanded of such boatman or other person, but that the same have not been repaid (such oath to be made before any justice), the amount thereof shall be recovered in like manner as any penalty is hereby directed to be levied and recovered by warrant under the hand and seal of such justice.

Boatmen to be answerable to their masters for all such damages and costs.

85. In case any person complains of the operation of any regulation of the commissioners, or of any determination or proceeding of the commissioners, or of the conduct of any of their officers, he shall, on an application in writing to the commissioners stating the substance of his complaint, be entitled to have his complaint inquired into.

Inquiry into complaints.

86. Every person who unloads, puts, or throws into any part of the port or on any shore or ground in the port below high-water mark at ordinary tides, any rubbish, earth, ashes, dirt, mud, soil, or other matter, or allows any offensive matter to flow into the port, shall forfeit for every such offence any sum not exceeding one hundred pounds.

Penalty on throwing ballast out of vessels into the port.

87. If any person pulls down or injures any board put up or required by this Act for the the purpose of publishing any regulation, notice, or penalty, or obliterates any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalty for defacing boards used for such publications.

88. If, through any act, neglect, or default on account whereof any person has incurred any penalty imposed by this Act, any damage to the property of the commissioners has been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty, and the amount of such damage in case of dispute shall be determined by the stipendiary magistrate by whom the party incurring such penalty has been convicted; and on non-payment of such damage on demand the same may be levied by distress, and any justice may issue his warrant accordingly.

Damages to be made good in addition to penalty.

89. The commissioners shall publish short particulars of the several offences for which any penalty is imposed by this Act or by any regulation of the commissioners affecting other persons than the officers or servants of the commissioners, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, and shall cause such board to be hung up or affixed in some conspicuous place in the office of the commissioners.

Publication of penalties.



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90. (1) All penalties and other sums of money by this Act, or any regulations made thereunder, made payable or recoverable may be recovered with costs, and all offences by this Act made punishable may, unless declared to be misdemeanours, be prosecuted and punished, and the costs of such prosecution recovered, at the suit of any person, by summary proceeding before a stipendiary magistrate.

(2) Whenever any penalty has been imposed by any stipendiary magistrate, under the provisions of this Act, and the person convicted does not forthwith pay the same into the hands of the convicting magistrate such magistrate may direct that such penalty be recovered by distress and sale of the goods and chattels of such person, and in default of a sufficient distress, or in the discretion of such magistrate, without making any order or issuing any warrant for such distress, he may direct that such person be imprisoned in any gaol in New South Wales, with or without hard labour, for any period authorised by law.

91. In all cases where any damages, costs, or expenses are by this Act directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by a stipendiary magistrate, and if the amount so ascertained is not paid by the commissioners or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the commissioners or other party liable as aforesaid; and the magistrate by whom the same have been ordered to be paid, on application, shall issue his warrant accordingly.

92. Where in this Act any question of compensation, expenses, charges, or damages is referred to the determination of any stipendiary magistrate, it shall be lawful for any justice, upon the application of either party to summon the other party to appear before a stipendiary magistrate at a time or place to be named in such summons, and upon the appearance of such parties, or in the absence of them upon proof of due service of the summons, it shall be lawful for such magistrate to hear and determine such question, and for that purpose to examine such parties or any of them and their witnesses on oath, and the cost of every such inquiry shall be in the discretion of such magistrate, and he shall determine the amount thereof.

93. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

94. If in any legal proceeding under this Act any question arises whether any vessel is or is not within the provisions of this Act, or of some particular part thereof, such vessel shall be taken to be within such provisions unless proof to the contrary is adduced.



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95. It shall be lawful for the commissioners to sue and take any proceedings against any person who steals, takes, or carries away, wilfully defaces, or injures any property, article, or thing belonging to the commissioners, and in every such case it shall be sufficient to state generally the property, article, or thing in respect of which such proceedings have been taken to be the property of the commissioners by their corporate name.

How proceedings to be taken.

96. Any summons, notice, writ, or other proceeding at law or in equity required to be served upon the commissioners, may lawfully be served by delivering the same personally to the secretary, or by leaving the same at the office of the commissioners.

Service of notice on commissioners.

97. Service of any summons or other process in any legal proceeding under this Act shall be deemed good service if made personally on the person to be served, or if made to any person at his last known place of abode or business, or on board any ship to which he belongs, and accompanied in the latter case with a statement of the purport thereof to the person in command or appearing to be in command or charge of such ship.

Service to be good if made personally, or at abode, or on board of ship, &c.

98. Every summons, demand, or notice or other like document given under the provisions of this Act shall be sufficiently authenticated if signed by the secretary or by any one commissioner, and need not be sealed with the common seal of the commissioners.

Authentication of notices, &c.

99. It shall be lawful for any officer or agent of the commissioners, and all persons called by him to his assistance, to seize and detain any person who has committed any offence against the provisions of this Act or any regulation made in pursuance thereof, and whose name and residence is unknown to such officer or agent, and convey him with all convenient despatch before a stipendiary magistrate, without any warrant or other authority than this Act, and such magistrate shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Transient offenders.

100. The commissioners of the one part, and the council of the city of Sydney, or the council of any municipality whose district adjoins the port, of the other part, may, for the purpose of providing convenient ways to and from any of the lands, wharfs, docks, piers, jetties, landing-stages, slips, platforms, depôts or sheds of the commissioners, enter into and perform such contracts as they may deem fit with respect to constructing, repairing, or maintaining any street, road, bridge, or approach, or any part thereof, within the limits of the said city, borough, or municipal district as the case may be, either by apportioning the work to be done, or by sharing the expenses thereof, or otherwise in the absolute discretion of the contracting parties.

Power to contract with municipalities as to streets and roads.

101. The Governor may, upon the request of the commissioners and of the council of any such municipality as aforesaid, declare by

The Governor with consent of commissioners may proclaim highways.



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by notice in the Gazette any land vested in the commissioners to be a public highway under the management and control of that council, and such highway shall be treated in all respects as if it were within that municipality and dedicated to the public.

5 **102.** Whenever any day appointed for any purpose by this Act or the regulations of the commissioners happens to be a Sunday or a bank holiday throughout New South Wales, then the next following day which is not a Sunday or a bank holiday throughout New South Wales shall be treated as the day appointed for the purpose. Provision for case of any day appointed falling on a Sunday or holiday.

10 **103.** The production of a copy of the Gazette containing what purports to be regulations of the commissioners approved of by the Governor shall be received in all legal proceedings as evidence of the regulations of the commissioners, and the term "regulations" is to be understood to include the alteration or repeal of any regulations. Gazette to be evidence of regulations.

15 **104.** All penalties recovered for offences against this Act or against any regulation made under this Act shall be paid to the commissioners, and the proceeds of such penalties are hereby appropriated for the purposes of this Act. Application of penalties.

## SCHEDULES.

## SCHEDULE ONE.

*Repeal of Acts.*

Year and number of Act.	Title of Act.	Extent of repeal.
25 35 Vic. No. 7 ...	Navigation Act of 1871 ...	So much of sections 19 and 55 and the unrepealed enactments of sections 107 to 122 inclusive, amended by 36 Vic. No. 30, and 60 Vic. No. 36, and Act No. 32 of 1899, as relates to the Port of Sydney, and is inconsistent with this Act.
30 36 Vic. No. 30...	Navigation Act Amendment Act of 1873.	So much of sections 14 and 16 as relates to the Port of Sydney.
35 43 Vic. No. 13...	Navigation Act Further Amendment Act of 1879.	ss. 2 and 3.
44 Vic. No. 8 ...	Wharfage and Tonnage Rates Act of 1880.	s. 18.
46 Vic. No. 8 ...	Wharfage and Tonnage Rates Act Amendment Act of 1882.	The whole Act so far as it relates to the port of Sydney.
40 48 Vic. No. 18	Crown Lands Act of 1884...	So much of sections 64, 65, and 68 as relates to reclamations within the Port of Sydney.
45 58 Vic. No. 18	Crown Lands Act of 1895...	So much of section 54 as relates to reclamations within the Port of Sydney.

## SCHEDULE



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## SCHEDULE TWO.

All that area within the following boundaries, exclusive of Garden Island, Spectacle Island, Shark Island, Clarke Island, and Cockatoo Island: Commencing at high-water mark on the southernmost point of the North Head of Port Jackson; 5 and bounded thence by a line south-westerly to high-water mark on the northernmost point of the inner South Head; thence by a line southerly closely following high-water mark till it meets the prolongation south-westerly of the north-western boundary of two roods twenty-eight perches, purchased by the Crown for use as a pilot station at Watson's Bay; thence north-easterly, south-easterly, and south- 10 westerly by the said prolongation, the north-western, north-eastern, and south-eastern boundaries of the said purchased land and the prolongation south-westerly of the last-mentioned boundary to high-water mark; thence again by a line closely following high-water mark around all bays, coves, rivers, creeks, inlets, indentations, points, promontories, headlands, &c., on the southern shores of Port Jackson to the eastern 15 side of Woolloomooloo Bay, at its intersection with the northern boundary of the area resumed for wharfage purposes by Gazette notice of the fourth day of February, one thousand eight hundred and ninety; thence by the north-easterly, easterly, and southern boundaries of that area to the intersection of the last-mentioned boundary with the existing wrought-iron palisade; thence by that palisading and its prolongation 20 south-westerly to the easternmost corner of the existing wrought-iron palisading at Cowper's Wharf; thence by that palisading and the southern sides of the erections along that wharf to the south-western corner of shed known as number nine, now leased to M'Arthur and Company; thence by a line westerly to the eastern boundary of the Domain; thence by that boundary, as fenced, northerly to the westerly extension 25 of the southern boundary of the ladies' baths; thence easterly by that extension to high-water mark on the western side of Woolloomooloo Bay; thence again by high-water mark around all bays, coves, rivers, creeks, inlets, indentations, points, promontories, headlands, &c., to the eastern side of Bennelong Point, at a point due east of the north-eastern extremity of Fort Macquarie; thence by a line north- 30 westerly to the south-eastern corner of the picket fence on the northern side of the approach to the horse-ferry dock; thence by that fence and an iron palisade westerly to an eastern boundary of the Peninsular and Oriental Steamship Company's wharf; thence southerly by the eastern sides of the structures and the connecting iron palisading along the wharfs on the eastern side of Sydney Cove southerly to the 35 south-east corner of the shed used by Burns, Philp and Company (Imperial Japanese Mail Service); thence by a line due south to the southern side of the street known as Circular Quay; thence by that side to the western side of Pitt-street; thence by the extension of that side of Pitt-street northerly to the northern boundary of twenty-seven perches appropriated in the year one thousand eight hundred and fifty- 40 six as a site for Mariners' Church; thence by that boundary westerly to the eastern side of George-street; thence north-westerly to the western side of the road leading to the horse-ferry dock at Dawes' Point; thence by that side of that road generally north-easterly to high-water mark on the north-eastern side of Dawes' Point; thence again by high-water mark as before to its intersection with the western side of George-street 45 North; thence bounded on the east, south-east, south, north-west, and north by the line forming the inner boundary of the land resumed in connection with the Darling Harbour Improvement scheme and notified in the Government Gazette of third of May, one thousand nine hundred, numbered four hundred and fifteen, folio three thousand four hundred and thirty-nine, to the north-east corner of Smith's wharf on the southern 50 side of Bettington-street; thence southerly along part of the eastern side of that property to the north-west corner of Munn-street; thence by part of the northern side of that street easterly to a point in the prolongation northerly of the western side of Dalgety and Company's new brick stores; thence southerly crossing Munn-street to the



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north-west corner of that store and along the western boundary to the south-west corner thereof; thence easterly along the southern boundary of the said store to the most southerly corner of the eastern side of that store; thence south-easterly by a direct line to the south-west corner of Wentworth-street, which is an angle on the

5 eastern boundary of the land recently owned by T. A. Dibbs; thence by the boundary of that land south-easterly, south-westerly, and again south-easterly to the north-western side of Clyde-street; thence by a line easterly crossing Clyde-street to the most northerly corner of the land on the south-eastern side of Clyde-street recently owned by T. A. Dibbs; thence by boundaries of

10 that land south-easterly, south-westerly, and again south-easterly to the north-western side of land recently owned by Archibald McLean; thence north-easterly by the north-western boundary of that land to the western side of the passage bounding that land on the east; thence southerly along the eastern boundary of that land to the south-eastern corner thereof; thence southerly crossing the land recently held by

15 the Municipal Council of Sydney by a direct line to the north-western corner of the land on which house number two Agar-street is erected; thence again southerly by the western boundary of that land, the western boundary of Agar-street, and the western boundary of the land on which house number one of Agar-street is erected to the northern boundary of land recently owned by T. Paton;

20 thence by part of the northern boundary of that land westerly about sixty-two feet to a point thereon in the prolongation northerly of a line of paling fence; thence by that prolongation and that paling fence, and the prolongation southerly of the line of that fence to the northern boundary of land recently purchased by the Australian Gas Light Company (Limited) from Philip Rech; thence by that boundary westerly to the waters

25 of Darling Harbour, being the south-west corner of the land described in Schedule number one of the proclamation of third day of May, one thousand nine hundred, referred to above; thence southerly by the high-water mark of the eastern side of Darling Harbour to the south-west corner of the Australian Gas Light Company's land; thence by three boundaries of that land bearing easterly, southerly, and again

30 easterly to the south-eastern corner of Jenkins-street; thence by the prolongation of the eastern side of that street southerly about fifty feet to a point thereon in the prolongation westerly of the line of the most southern portion of a brick dwelling house; thence by the last-mentioned prolongation and the southern side of the said house and of the land enclosed with same easterly to the cliff; thence by the cliff

35 and the western side of a brick stable southerly to the northern side of the entrance to the Grafton wharf; thence by that side of that entrance easterly to the western side of Kent-street; thence by that side of that street southerly to the south-eastern corner of the said entrance; thence by the southern side of that entrance, westerly to the north-western corner of the Model Lodging-house property; thence

40 southerly by part of the western boundary of that property to the south-east corner of a brick store; thence by the southern side of that store westerly to the north-east corner of the North Coast Steam Navigation Company's workshop; thence southerly by the eastern side of that workshop to the northern side of Napoleon-street; thence by part of the northern side of Napoleon-street easterly, and thence by the eastern side of that

45 street southerly to the north side of Margaret-street, being a point on the boundary of the land resumed on third day of May as aforesaid; thence westerly and southerly by that boundary to the dividing line between stores numbered thirty-nine and forty-one on the western side of Sussex-street; thence by the dividing line between these two stores and the prolongation thereof westerly to a point on the eastern boundary of the land recently

50 held by the Australian Mutual Provident Society as mortgagees in possession; thence by the eastern boundary of that land southerly about twenty-three feet to the north-east corner of the portion of that land occupied by Thomas Turner, wine and spirit merchant; thence by the northern boundary of Thomas Turner's occupation aforesaid westerly to the eastern boundary of land occupied by Halliday Brothers, mechanical

55 engineers; thence by the eastern boundary of that land southerly to the northern side of Erskine-street; thence by that side of that street westerly to a point thereon in the prolongation northerly of the eastern side of Lime-street; thence

by



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by that prolongation and that side of that street southerly to the northern side of Slip-street; thence by the northern side of Slip-street easterly to the western side of Day-street; thence across Slip-street at right angles to the northern boundary of the land recently held by the Australasian United Steam Navigation Company (Limited); thence by three boundaries of that land easterly, south-westerly, and south-easterly to the western side of Sussex-street; thence by the street frontage of that land southerly to the south-east corner of that land; thence along the northern side of store numbered one hundred and seven, Sussex-street, westerly about twenty-seven feet to the north-west corner of that store; thence by the western side of the above numbered one hundred and seven, one hundred and nine, one hundred and eleven, and one hundred and thirteen southerly to the northern side of land recently owned by James Edrop; thence westerly along part of the northern side of that land about one hundred and twenty feet to a passage leading into King-street; thence southerly by the eastern side of that passage to the north side of King-street; thence across King-street south-easterly to the north-western corner of a passage bounding shop number fifteen, King-street, on the east; thence by the western side of that passage southerly to the south-western corner thereof; thence easterly along the northern side of land recently owned by John Struth, by the northern side of that land and the line dividing stores numbered one hundred and twenty-seven and one hundred and twenty-nine, Sussex-street, to the western side of Sussex-street; thence by that side of that street southerly to the north-eastern corner of Bray's store, numbered one hundred and thirty-nine; thence by the northern boundary of that store westerly to its north-west corner; thence by the western side of Bray's stores southerly to the south-western corner of store one hundred and fifty-three; thence by part of the southern boundary of the land recently owned by A. C. Bray and the northern side of Wharf-street westerly to the north-western corner of Wharf-street; thence southerly by the western side of Wharf-street to the northern side of Market-street; thence crossing Market-street and the Baltic Wharf property recently resumed as an approach to Pyrmont Bridge southerly to the north-east corner of that part of the Albion Wharf land recently held under lease by A. McArthur and Company; thence by the western boundary of a lane twenty feet wide bounding that lease and the lease to John Lysaght (Limited) southerly to the south-western corner of the said lane, which is a point on the northern boundary of the land recently owned by Robert Reid and Company; thence by part of the northern boundary of that land easterly to Sussex-street, which is a point on the boundary of the land resumed by the proclamation of the third day of May, one thousand nine hundred, before referred to; thence generally in a southerly direction by that boundary to the waters of Port Jackson; thence again by high-water mark generally westerly to the iron wharves at the head of Darling Harbour; thence by the landward boundary of those wharves and a line northerly to the northern side of Union-street; thence by that side westerly to the western side of Murray-street; thence generally north-westerly by the south-easterly boundaries of the unsold portions of the land resumed for wharfage purposes by Gazette notice of the seventh day of August, one thousand eight hundred and ninety-six, to the southern side of John-street; thence easterly along that side to its intersection with the prolongation southerly of the western boundary of the land resumed for railway purposes at Darling Island by Gazette notice of the fourth day of June, one thousand eight hundred and eighty-nine; thence by that prolongation and the said western boundary northerly to high-water mark; thence again by high-water mark around all bays, coves, rivers, creeks, inlets, indentations, points, promontories, headlands, &c., to the north-western side of the Pyrmont Bridge road; thence by that side of that road south-westerly to the north-eastern boundary of the Auckland Timber Company's property; thence by that boundary north-westerly to high-water mark; thence again by high-water mark along all bays, coves, rivers, creeks, canals, inlets, indentations, points, promontories, headlands, &c., to the mouth of the Parramatta River; thence again by high-water mark of all arms and the right bank of that river upwards to the dam at the town of Parramatta; thence by that dam north-westerly to high-water mark of the left bank of the said river; thence, again, by high-water



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water mark along that bank downwards to its junction with the right bank of Lane Cove River; thence, again, by high-water mark along that bank of that river upwards to the head of navigation; thence by high-water mark of the left bank of that river downwards to its junction with the northern side of Port Jackson; and thence, again, 5 by high-water mark along all bays, coves, harbours, rivers, creeks, canals, inlets, indentations, points, promontories, headlands, &c., including all arms of Middle and North Harbours, to the point of commencement.

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Sydney : William Applegate Gullick, Government Printer.—1900.

[1s. 6d.]



*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 5 September, 1900. }*

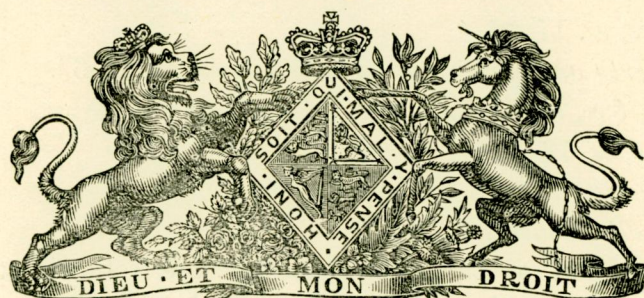
*F. W. WEBB,  
Clerk of the Legislative Assembly.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Legislative Council Chamber,  
Sydney, October, 1900. }*

*Clerk of the Parliaments.*

## **New South Wales.**



ANNO SEXAGESIMO QUARTO

# **VICTORIÆ REGINÆ.**

\*\*\*\*\*

Act No. , 1900.

An Act to make better provision for and in connection with the management of the port of Sydney ; to establish and appoint the Sydney Harbour Trust Commissioners ; to confer on such Commissioners certain powers in relation to such port, including, among other powers, the power to levy and collect certain tolls, dues, rates, rents, and charges, and to purchase and resume lands ; to vest certain property in the said Commissioners ; and for purposes incidental to or consequent on those objects.

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

61—A

PRELIMINARY—

**NOTE.**—The words to be omitted are ruled through ; those to be inserted are printed in black letter.



*Sydney Harbour Trust.*

PRELIMINARY—ss. 1 to 4.

1. This Act may be cited as the “Sydney Harbour Trust Act, Short title and  
1900,” and shall come into force on the first day of November, one commencement of  
thousand nine hundred, hereinafter in this Act referred to as “the  
5 commencement of this Act.”

2. The enactments hereinafter contained are arranged under Arrangement of Act.  
Parts in the order following :—

PART I.—*Constitution of the Sydney Harbour Trust Commission,*  
ss. 5–16.

10 PART II.—*Officers,* ss. 17–26.

PART III.—*Property and powers of commissioners,* ss. 27–67.

PART IV.—*Rates, &c.,* ss. 68–72.

PART V.—*Finance,* ss. 73–77.

PART VI.—*Regulations,* ss. 78–81.

15 PART VII.—*Miscellaneous,* ss. 82–104.

3. In the construction of this Act, each of the following Interpretation.  
expressions shall have the meaning hereby assigned to it, unless such  
meaning is inconsistent with the context in which the expression  
occurs :—

20 “Ballast”—Includes every kind of stone, gravel, sand, and soil,  
and material commonly used for the ballasting of vessels.

“Buoys and beacons”—Include all other marks and signs placed  
for the purpose of navigation.

25 “Commissioners”—Sydney Harbour Trust Commissioners consti-  
tuted under this Act.

“Goods”—Includes wares, merchandise, and articles of whatso-  
ever description.

“Harbour-master”—Includes assistant harbour-master.

30 “Master”—Includes every person having lawfully, or *de facto*,  
the command, charge, or management of a vessel for the  
time being.

“Owner of a registered ship”—Includes any person who is the  
owner jointly with any other person or persons, or any joint  
stock company registered as the owner.

35 “Owner” when used in relation to goods—Includes any con-  
signor, consignee, shipper, or agent for the sale or custody,  
loading or unloading of goods, as well as the owner thereof.

“Private owner”—Any person being the owner or occupier of  
land other than the Crown or any Government Department.

40 “River”—Includes creek.

“Ship”—Every description of vessel used in navigation not  
propelled by oars.

“Shore”



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- “Shore” means shore so far as the tide flows and reflows, between high and low water-marks.
- “Stipendiary magistrate” includes a deputy or acting stipendiary magistrate.
- 5 “The port”—So much of the port of Sydney, the rivers falling into it with their tributaries, and the land on the margins thereof as is covered at mean high-water.
- “Vessel”—Ship, lighter, barge, boat, raft, craft, or vessel of whatever description and howsoever navigated.
- 10 “Wreck”—Includes jetsam, flotsam, lagan, and derelict.
4. The Acts described in Schedule One are to the extent therein Repeal. indicated hereby repealed.

PART I.

THE COMMISSION.

15 *Constitution of the Commission.*

5. There shall be three commissioners for carrying this Act into execution, who shall be a body corporate by the name of “The Sydney Harbour Trust Commissioners,” and by that name shall have perpetual succession and a common seal, with power to take, purchase, sell, lease and hold lands, goods, chattels, and other property, for the purposes of this Act, subject always to the restrictions herein contained.
- 20 6. All courts, judges, and persons acting judicially shall take judicial notice of the incorporation, and of the common seal of the Sydney Harbour Trust Commissioners, affixed to any deed, instrument, or writing, and shall presume that such seal was properly affixed thereto; and such deed, instrument, or writing, when sealed, whether such instrument or writing is required to be sealed or not, shall be admissible in evidence for and against the said commissioners on the mere production thereof, without any other or further proof of the making of such deed, instrument, or writing.
- 30 7. No uncertificated bankrupt or insolvent shall be capable of being appointed a commissioner, and no commissioner who is declared a bankrupt, or who applies to take the benefit of any Act for the relief of insolvent debtors, or who compounds by deed or instrument in writing with his creditors, shall be capable of continuing a commissioner, and the office of such commissioner shall thereupon be vacant.
- 35 8. (1) The Governor shall, as soon as conveniently practicable after the passing of this Act, appoint three persons to be “Sydney Harbour Trust Commissioners,” who, subject to the provisions herein after contained, shall each hold office for a term of seven years.

Commissioners  
a body corporate.

Seal of commis-  
sioners.

Deed, instrument, or  
writing, sealed, ad-  
missible in evidence.

Bankrupts, &c., not  
to be or continue to  
be commissioners.

Appointment of  
commissioners.



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(2) On the occurrence of any vacancy in the office of a commissioner, the Governor shall appoint a person to the vacant office, whose term of office shall be for his predecessor's unexpired term of office. All persons appointed under the authority of this section shall, at the expiration of their respective term of office, be eligible for re-appointment for a like term of seven years.

(3) In the case of the illness, suspension, or absence of any commissioner, the Governor may appoint some person to act as the deputy of such commissioner during such illness, suspension, or absence; and every person so appointed shall, while so acting, have all the powers and perform all the duties of such commissioner.

9. (1) A commissioner may be removed for misbehaviour or incompetence in the following manner:— Tenure of office of commissioners.

(a) A commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided. The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension if Parliament be in session and actually sitting, and when Parliament is not in session or not actually sitting within seven days after the commencement of the next session or sitting.

(b) A commissioner suspended under this section shall be restored to office unless each House of Parliament shall within twenty-one days from the time when such statement shall have been laid before it, declare by resolution that the said commissioner ought to be removed from office, and if each House of Parliament shall within the said time so declare, the said commissioner shall be removed by the Governor accordingly.

10. A commissioner shall be deemed to have vacated his office,— Office how otherwise vacated.

- (a) if he shall engage, during his term of office, in any employment outside the duties of his office;
- (b) if he shall become insolvent, or apply to take the benefit of any Act now or hereafter to be in force for the relief of insolvent debtors, or shall compound with his creditors, or make an assignment of his salary for their benefit;
- (c) if he shall absent himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor (which leave he is hereby authorised to grant), or shall become incapable of performing his duties.
- (d) If he shall become in any way concerned or interested in any contract or agreement made by or on behalf of the commissioners; or shall in anywise participate, or claim to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.



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11. One of such three commissioners shall be appointed by <sup>President.</sup> the Governor as president, and on the occurrence of any vacancy in the office of president the Governor shall appoint a person to fill that office.

5 12. The commissioners shall receive the following salaries, <sup>Salaries of commissioners.</sup>  
viz. :—

- (1) the president, two thousand pounds per annum ;
- (2) each of the other commissioners, one thousand pounds per annum.

10 All such salaries are hereby charged on the Consolidated Revenue Fund ; and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.

13. For the conduct of business any two commissioners shall be <sup>Quorum.</sup> a quorum, and, subject to the enactment next following, shall have all the powers and authorities by this Act vested in the commissioners.

14. If, at any meeting at which two commissioners only are <sup>Procedure on difference of opinion.</sup> present, such commissioners shall differ in opinion upon any matter, the determination of such matter shall be postponed until all the commissioners are present.

20 15. No act or proceeding of the commissioners shall be <sup>Acts of commissioners not invalidated by vacancy.</sup> invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any one commissioner.

16. The commissioners shall keep minutes of their proceedings <sup>Minutes of proceedings.</sup> in such manner and form as the Governor shall direct.

PART II.

OFFICERS.

*Administrative and other officers.*

17. (1) A secretary and staff of clerks and so many engineers, <sup>Administrative and other officer</sup> surveyors, inspectors, accountants, collectors, clerks, rangers, and such other officers and servants as may be considered necessary for the due administration of this Act shall be appointed by the Governor on the nomination of the commissioners and shall not be removed except on the recommendation of the commissioners.

35 Such persons so to be appointed shall be subject to the sole control and governance of the commissioners.

No person so appointed shall be permitted to engage in any employment other than in connection with the duties of his office without the sanction in writing of the commissioners :

The



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The provisions of the Public Service Act of 1895, and any Acts amending the same, shall not apply to any person appointed under this section: Provided that nothing herein contained shall affect the rights accrued or accruing under the said Acts to any public servant  
 5 whose services are transferred to the commissioners, and such public servants may continue to contribute to the superannuation account and shall be entitled to receive any payment, pension, or gratuity as if they were officers within the meaning of those Acts: Provided that all appointments at daily or weekly wages shall lie in the sole power of  
 10 the commissioners.

(2) If any such secretary, treasurer, clerk, engineer, surveyor, collector, or other officer exacts, takes, or accepts on account of anything done by virtue of his office, or in relation to the functions of the commissioners any money by way of fee or reward whatsoever  
 15 other than his fixed salary, or allowances, or is in anywise concerned or interested in any bargain or contract made by or on behalf of the commissioners, otherwise than as a member only (but not as a director or officer) of any company, he shall be incapable of being afterwards employed in any such office, and shall forfeit the sum of fifty pounds;  
 20 and any person may sue for such penalty by action of debt in the Supreme or District Court, and shall on recovery thereof be entitled to full costs of suit.

(3) Before any such officer intrusted with the custody and control of moneys enters upon his office, the commissioners shall take  
 25 such sufficient security for the faithful execution of his office, as may be determined by the Minister.

18. Every officer appointed or employed under the authority of this Act shall, when required by the commissioners, make out and deliver to them, or to any person appointed by them for that  
 30 purpose, a true and faithful account in writing under his hand of all the moneys received by him on behalf of the commissioners; and such account shall state how, and to whom, and for what purpose, such moneys have been disposed of, and, together with such account, such officer shall deliver the vouchers and receipts for such payments;  
 35 and every such officer shall pay to the commissioners, or to any person appointed by them to receive the same, all moneys which appear to be owing from him upon the balance of such account.

19. (1) If any officer fails to render such account, or to produce and deliver up all the vouchers and receipts relating to the same  
 40 in his possession or power, or to pay the balance thereof when required; or if, for five days after being required, he fails to deliver up to the commissioners, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things in his possession or power relating to the execution of this  
 45 Act, or belonging to the commissioners, then, on complaint thereof being made to a justice, such justice shall summon such officer to appear

Officer taking fees to lose his office and forfeit £50.

Commissioners to take security from officers intrusted with money.

Officers to account.

Summary recovery against persons failing to account.



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appear before a stipendiary magistrate at a time and place to be set forth in such summons to answer such charge, and upon the appearance of such officer, or, in his absence, upon proof that such summons was personally served upon him, or left at his last-known place of abode, such stipendiary magistrate may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appears either upon confession of such officer, or upon evidence, or upon inspection of the account that any moneys of the commissioners are in the hands of such officer, or owing by him to the commissioners, such stipendiary magistrate may order such offender to pay the same, and, if he fails to pay the amount, such stipendiary magistrate may grant a warrant to levy the same by distress, or for default of sufficient distress to satisfy the same may grant a warrant to commit the offender to gaol, for any period authorised by law.

(2) If any officer on being so brought before such stipendiary magistrate and being required so to do refuses to make out any such account in writing, or to produce and deliver to the stipendiary magistrate the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power or belonging to the commissioners, such stipendiary magistrate may commit such offender to gaol until he has made out such account or delivered up such vouchers, receipts, books, papers, writings, property, effects, matters, and things:

Penalty on officer refusing to deliver up documents.

(3) Provided that if any commissioner, or other person acting on behalf of the commissioners, makes oath that he has good reason to believe upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer to abscond, or that he has absconded, it shall be lawful for the justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for bringing such officer before a stipendiary magistrate as aforesaid, but no person executing such warrant shall keep such officer in custody longer than forty-eight hours without bringing him before a stipendiary magistrate as aforesaid; and it shall be lawful for the said magistrate either to discharge such officer, if he thinks there is no sufficient ground for his detention, or to order such officer to be detained in custody until the determination of the complaint, unless such officer gives bail to the satisfaction of such magistrate for his appearance to answer the complaint.

Warrant may be issued in the first instance for absconding officer.

(4) No such proceeding against, or dealing with, any such officer as aforesaid shall deprive the commissioners of any remedy which they might otherwise have against any surety of such officer.

Commitment not to discharge sureties.

*Port officers.*

20. The Governor, on the nomination of the commissioners, may appoint such fit and proper persons to be harbour-master and assistant

Power to appoint harbour-master, assistant harbour-masters, &c.



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assistant harbour-masters for the port, and such other officers as may be thought necessary, and at-pleasure **on the recommendation of the Commissioners** may remove such harbour-master, assistant harbour-masters, or other officers; and such harbour-master and each of such  
 5 assistant harbour-masters shall when acting be the port officer, or harbour-master of the port within the meaning of this Act, in the exercise of the powers conferred upon such port officer or harbour-master by any Act now in force when not inconsistent with this Act:

The provisions of the Public Service Act of 1895, and any Acts  
 10 amending the same, shall not apply to any persons appointed under this section: Provided that nothing herein contained shall affect the rights accrued or accruing under the said Acts to any public servant whose services are transferred to the commissioners, and such public servants may continue to contribute to the superannuation account  
 15 and shall be entitled to receive any payment, pension, or gratuity as if they were officers within the meaning of those Acts.

**21.** It shall be lawful for the harbour-master to give directions for all or any of the following purposes (that is to say):— Powers of harbour-master.

For regulating the time and manner in which any vessel shall  
 20 enter into, go out of, or lie in the port, and the position, mooring, or unmooring, placing, or removing of any vessel within the same:

For regulating the manner in which any vessel shall take in or discharge cargo or any part thereof, or shall take in or deliver  
 25 ballast.

Provided that it shall not be lawful for such harbour-master to direct that any vessel shall lie or be within any part where any Statute directs that no vessel shall lie or be, or to unmoor or remove from any part of the port duly appointed as a boarding, landing, or quarantine station  
 30 any vessel moored or placed there under the authority of the Colonial Treasurer, or to moor or place any vessel alongside any quay, custom-house, station, or other place appropriated to the service of the customs.

**22.** The master of every vessel within the port shall regulate such vessel according to the directions of the harbour-master made in  
 35 conformity with this Act; and any master of any vessel who, after the service on him of a notice in writing signed by the harbour-master, does not forthwith regulate such vessel according to such direction shall be liable to a penalty not exceeding five pounds. Penalty on not complying with directions of the harbour-master.

**23.** If the master of any vessel within the port does not moor, unmoor, place, or remove such vessel according to the directions of the  
 40 harbour-master in writing given to the said master, it shall be lawful for the harbour-master to cause such vessel to be moored, unmoored, placed, or removed according to the directions aforesaid, and to employ a sufficient number of persons for that purpose, and the  
 45 expenses attending such mooring, unmooring, placing, or removing shall be paid by the master of such vessel. Power of harbour-masters to remove vessels.

**24.**



*Sydney Harbour Trust.*

24. If any master of any vessel within the port or any person on board the same hinders the harbour-master or any person employed by him in mooring, unmooring, placing, or removing such vessel in manner aforesaid, such master or other person shall forfeit on conviction 5 for every such offence a sum not exceeding five pounds.

Penalty on master or person on board for obstructing harbour-master.

25. If any master or other person on board any vessel moored or fastened within the port does not upon demand of the harbour-master unloose or slacken the rope or chain by which such vessel is moored or fastened, or if there is no person on board of any such 10 vessel so moored or fastened, it shall be lawful for the harbour-master to unloose or slacken the rope or chain by which such vessel is so moored or fastened as aforesaid, and to cause, if necessary, a sufficient number of persons for the protection of the same to be put on board such vessel, and all expenses thereby incurred shall be paid 15 by the master of such vessel.

Harbour-master may slacken ropes.

*Actions against officers.*

26. All actions to be brought against any person for anything done under this Act shall be commenced within six months after the act complained of was committed, and no writ shall be sued out against, 20 and no copy of any process shall be served upon any person for anything done by him under this Act, until notice in writing of such intended writ or process has been delivered to him, or left at his usual place of abode, by the agent or attorney of the party who intends to cause the same to be sued out or served, at least one month before the suing out 25 or serving of the same. Such notice shall clearly and explicitly set forth the nature of the intended action and the cause thereof, and on such notice shall be endorsed the name and place of abode of the party intending to bring such action, and the name and place of business of his attorney or agent.

Actions against officers.

30 The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

Defendant may plead general issue.

No plaintiff shall recover in any such action if tender of sufficient amends has been made before such action was brought, or if 35 a sufficient sum of money has been paid into Court after the commencement of such action by or on behalf of the defendant.

And if the matter or thing complained of appears to have been done under the authority and in execution of this Act, or if any such action is brought after the time limited for bringing the same, or such 40 notice has not been given as aforesaid, the jury shall find or judgment shall be given for the defendant.



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## PART III.

## PROPERTY AND POWERS OF COMMISSIONERS.

*Vesting of property and general powers.*

27. There shall be vested in the commissioners upon trust for Lands &c., vested in commissioners.  
 5 the purposes of this Act the bed and shores of the waters of the port,  
 all land now vested in the Government within the boundaries of the port,  
 and the lands resumed, purchased, or reclaimed by the Crown in connec-  
 tion with or used for wharfage purposes as described in Schedule Two,  
 together with all light-houses, light-ships, leading lights and marks,  
 10 beacons, wharfs, cranes, engines, dredges, tugs, shipping appliances,  
 and all other the property of the Crown subject to the interest of any  
 persons in such land existing at the time of the passing of this Act :

Provided that the Governor may at any time vest in the  
 commissioners any further lands **the property of the Crown**, deemed to  
 15 be necessary, and may remove from the commissioners such lands as  
 may be found to be unnecessary for the purpose of carrying out the  
 provisions of this Act.

28. Upon the publication in the Gazette of a proclamation with- Lands withdrawn to vest in original owners.  
 drawing any lands from the commissioners under the provisions of the  
 20 next preceding section, the lands so described shall vest in the  
 persons who would be entitled to the same and subject to the like  
 limitations, powers, and authorities as if this Act had not passed. For  
 the purposes of this section, the word "persons" shall be deemed to  
 include the Crown, or any person or corporation entitled to hold land  
 25 on behalf of the Crown.

29. No lease or license in force at the commencement of this Leases and licenses existing at time of passing of this Act.  
 Act of, or relating to, any Crown land hereby vested in the commis-  
 sioners, shall be in any manner affected by this Act. Any moneys  
 payable after the said commencement, as the rent reserved in respect  
 30 of any such leases, may be recovered by the commissioners.

At the expiration of the term of any of the said leases or  
 licenses, it shall be lawful for the commissioners to renew or deal with  
 such leases or licenses on such conditions and terms as they may deem fit.

When the renewal of any such lease is refused, the commis-  
 35 sioners shall pay the leaseholder such compensation for improvements  
 as has been reserved by the lease.

30. The powers contained in sections sixty-three and sixty-four No rescission of any reservation of water frontage without consent of commissioners.  
 of the Crown Lands Act of 1884, and any enactments amending the  
 same, so far as they relate to lands within the port, are hereby con-  
 40 ferred on the commissioners.

Any consideration money for the exercise of such powers shall  
 be paid to the commissioners for the purposes of this Act :

Provided that no grant under either of the sections mentioned  
 shall issue without the consent of Parliament.



*Sydney Harbour Trust.*

30. (1) The commissioners, with the approval of the Governor, may, on the application of the proprietor in fee simple of land having frontage to the port, authorise such proprietor to reclaim any part of the port adjoining thereto:

5     Provided that no such reclamation shall be authorised which may interrupt or interfere with navigation:

10     Provided also that the application to reclaim shall be published once a week in the Gazette and in some daily newspaper published in Sydney for four consecutive weeks before such authority for reclamation is given, during which time any person may lodge a caveat with the Secretary for Lands against the giving of such authority, and all such caveats shall be considered before the required approval of the Governor is given.

15     The commissioners, in giving such authority to reclaim, may give the same, subject to such terms and conditions as may appear desirable in the public interest, and in particular to the condition that, if such land or any portion thereof is resumed by the commissioners, no other compensation shall be payable than the value of any improvements upon the lands resumed, effected with the written approval of the commissioners first had and obtained, together with a repayment of the purchase money and of the cost of reclamation, or if the land resumed be a portion only of the land reclaimed, of a fair proportion of such purchase money and cost as aforesaid.

25     (2) In any case where such authority is given the Land Board for the Metropolitan District shall (subject to appeal by the applicant or the commissioners to the Land Appeal Court in the manner described by the Crown Lands Acts) appraise—

30     (a) the amount by which the value of the whole holding will be enhanced, by reason of the land to be reclaimed having been reclaimed and being held and enjoyed with the land held in fee simple; and

35     (b) the amount of the estimated cost of the reclamation; and the excess (if any) of such first-mentioned amount over such last-mentioned amount shall, within three months after a notice in the Gazette calling for the same has been published by the commissioners, be paid by the applicant to the commissioners, and in default of such payment the authority to reclaim may be declared to have lapsed, and the same shall thereupon become void and of no effect.

40     (3) The applicant shall, within such period as may be allowed for the purpose, complete the reclamation to the satisfaction of the commissioners, and upon the due completion thereof, the commissioners shall convey and assure to the applicant the land so reclaimed. The conveyance shall embody the terms and conditions subject to which the authority was given, or such of them as require  
45 to be so embodied.

(4)



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(4) If the reclamation be not completed to the satisfaction of the commissioners, or be not so completed within the aforesaid period, the commissioners may, by notification in the Gazette, declare the right to purchase the land, together with all moneys paid thereon, to be forfeited, and the same shall become forfeit accordingly; and upon such forfeiture the said authority to reclaim shall become void and of no effect, and any land which may have previously been reclaimed under such authority shall revert to the commissioners, freed and discharged from any right or claim of the applicant or any other person in or to the same.

31. All disputes between the commissioners and the Railway Commissioners, or any other Department of the Government, with respect to any such property, shall be referred to the Minister, whose decision shall be final and binding on all parties. Disputes to be settled by Minister.

32. It shall be the duty of the commissioners, according as they may think necessary, to dredge the port and keep it in fit and proper condition for navigation, and to prevent any filling or silting up of the channels or other waterways of the port: Provided that no dredging or deepening shall be performed within sixty feet of any private wharf, unless the owner thereof pays the expense of such dredging or deepening, except the dredging of deposits from storm-water channels. Commissioners to do certain work.

The commissioners shall keep or cause to be kept in fit and proper condition all public wharfs and quays, and dredge and deepen the port fronting the same, so as to be fit and serviceable for the mooring of vessels, and for the loading and discharging of the cargoes thereof, and also keep in proper order and condition all other property vested in them.

33. The exclusive management and control of the port and of the shipping, light-houses, light-ships, leading lights and marks, buoys, beacons, moorings, wharfs, docks, piers, jetties, ferries (except the steam-punt running from the Spit in Middle Harbour), landing-stages, slips, or platforms, and the preservation and improvement of the port generally, are hereby vested in the commissioners. Management of port and shipping vested in the commissioners.

34. All mooring-chains laid down within the port and being the property or under the control of any Government department shall be transferred to and the property in the same is hereby vested in the commissioners, and the commissioners are hereby required to maintain the same in good order and repair, and also to remove the same to other more convenient situations, and to lay down additional mooring-chains as and when they may think desirable. Mooring-chains vested in commissioners.

35. After the commencement of this Act no mooring-chains shall be put down or placed within the port without the permission of the commissioners previously obtained; and every such mooring-chain so put down or placed shall be so continued only during the pleasure of No mooring-chains to be laid down without permission of the commissioners.

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of the commissioners; and the commissioners may at any time, by giving one week's notice in writing, require such mooring-chains to be removed; and in case default is made in complying with such notice, such mooring-chain may be treated by the commissioners as  
 5 a public nuisance, and removed accordingly.

36. The commissioners may agree with any person being the owner of any private mooring-chains for the purchase of such mooring-chains, and may pay to such person such purchase-money or compensation as may be agreed upon. Commissioners may purchase private mooring-chains.

10 *Resumption and purchase of lands.*

37. (1) It shall be lawful for the commissioners, subject to the approval of the Governor, and subject to sufficient funds for the purpose being voted by Parliament, but without further or other authority than this Act, to resume any wharfs, jetties, lands, buildings, enclosures or  
 15 premises, which may be required for the purpose of harbour improvements and for the development of trade (such lands not being the property of the Crown) in accordance with the provisions hereinafter mentioned. The commissioners shall have power to enter upon and survey any lands within their jurisdiction. Commissioners may resume lands.

20 (2) The commissioners shall cause a notice of the resumption of any land required by them for the purposes aforesaid, to be published in the manner provided in the Act forty-fourth Victoria number sixteen. Service of notice.

(3) Upon the publication of such notice, the land therein  
 25 described shall for the purposes aforesaid, and subject to the provisions of this Act, be vested in the commissioners for an absolute estate in fee simple in possession, freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights of way, or easements whatsoever. Lands vested on service of notice.

30 (4) The owner of any portion of lands resumed, or the person who, but for the provisions of this Act, would have been such owner, shall be entitled to receive compensation for the land so resumed, and the amount of such compensation shall be ascertained in accordance with the provisions of the Lands for Public Purposes  
 35 Acquisition Acts, being the Acts of the forty-fourth Victoria number sixteen, and forty-fifth Victoria number twenty-six. For the purpose of ascertaining and dealing with such compensation, and for other purposes subsidiary thereto, the enactments hereinafter specified are declared to be incorporated with this Act, viz. :—

40 (a) As to conversion of the estates of owners of lands into a claim to compensation,—Section eleven of the Act forty-fourth Victoria number sixteen.

(b) As to notice of claim for compensation and abstract of title,—  
 45 Section twelve of the Act forty-fourth Victoria number sixteen, and First Schedule thereto, as amended by section three of the Act forty-fifth Victoria number twenty-six.

(c)



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- (c) As to procedure after receipt of notice of claim, and the institution of proceedings in the Supreme Court,—Sections thirteen and fourteen of the Act forty-fourth Victoria number sixteen.
- 5 (d) As to the nature of the issue in actions for compensation, verdict and costs, the payment of compensation, the mode of assessing compensation, and the obligation of the party claiming payment to make out a title,—Section two of the
- 10 the Act forty-fifth Victoria number twenty-six, section sixteen of the Act forty-fourth Victoria number sixteen, and section twenty-four of the Public Works Act of 1888, except that the interest payable under the said section sixteen shall be four per centum instead of six per centum.
- 15 (e) As to procedure on registration or transfer,—Section twenty-four of the Act forty-fourth Victoria number sixteen.
- And in order to carry out the intention of this section the words “this Act” whensoever occurring in any of the sections so declared to be incorporated herewith shall be held to include this present Act, and the words “under the sixth section of this Act” in section twenty-four
- 20 of the Act forty-fourth Victoria number sixteen shall be held, for the like purpose to refer to this present section of this Act, and the words “The Constructing Authority” shall be held to refer to the commissioners.
- (5) The several sections of the Public Works Act of 1888, Incorporation of certain provisions of Public Works Act of 1888.
- 25 hereinafter specified, together with the respective powers, authorities, duties, liabilities, obligations, and other the provisions therein contained are hereby declared to be incorporated with, and embodied in this Act to the intent that the same may be applied as fully and effectually to, and in respect of, the lands resumed by this Act as if the said sections
- 30 had been specifically enacted herein: Provided that, wheresoever in any section so incorporated the words “Constructing Authority” occur, there shall, for the purposes of this Act, be substituted in lieu of such words, the expression “commissioners;” the expression “authorised work,” wheresoever occurring in any such section shall be
- 35 held to refer to the work authorised by this Act; and the words “this Act” shall similarly be held to refer to this present Act. The following are the sections of the said Public Works Act so declared to be incorporated herewith—
- 40 (a) As to the deposit of compensation money in certain cases with the Master in Equity, and the application and investment thereof; as to payment of such money in certain cases to trustees, or to the parties themselves, the exoneration of the Minister in respect thereof after payment, the presumption of ownership, and the payment of costs,—Sections sixty-two
- 45 of to seventy-two, both inclusive.
- (b) As to the procedure by the Minister in case the owner or occupier of any lands resumed by this Act shall refuse to give



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give up possession thereof, or hinder the Minister from entering upon, or taking possession of the same,—Section seventy-seven.

- 5 (c) As to the purchase or redemption of the interests of mortgagees, and the deposit of principal and interest due on mortgages with the Master in Equity, the procedure to be observed when the mortgaged lands are of less value than the mortgage debt, and where part only of lands in mortgage is taken,—Sections eighty-one to eighty-six, both inclusive.
- 10 (d) As to the release of lands from rent charges and other incumbrances, and the procedure thereon,—Sections eighty-seven to ninety, both inclusive.
- 15 (e) As to the apportionment of rent where lands so resumed are taken under lease, and as to compensation to tenants,—Sections ninety-one to ninety-four, both inclusive.

38. In addition to the power of resuming land conferred by the last preceding section the commissioners may purchase from any person who may be willing to sell the same in fee simple, or for any less estate or interest, any land which the commissioners may require for any of the purposes aforesaid, subject to the approval of the Governor, and provided that the necessary funds are voted for the purpose by Parliament.

Power to purchase land for the purposes of this Act.

*Miscellaneous powers in regard to land.*

39. All lands vested in the commissioners by this Act, or which may hereafter be purchased or acquired by them pursuant to this Act, shall be exempt from any land tax and any rate or tax which the council of the city of Sydney or any municipal council might but for this section have imposed or levied thereon; but nothing herein shall preclude the council of the city of Sydney or any municipality from levying and collecting rates upon houses and buildings erected on such lands and leased and occupied for private purposes and by persons other than the commissioners or their officers and servants.

Lands vested in commissioners free from municipal rates.

40. The commissioners may subject to the approval of the Governor, contract for the lease of, and may lease for such considerations as they may deem reasonable, and by any deed under their corporate seal may demise to the lessees thereof, any superfluous lands in such manner as they may deem most advantageous; and such contracts and leases shall be valid and effectual to all intents and purposes.

Power to sell or lease certain lands not wanted.

41. The commissioners with the approval of the Governor, may grant leases of any land vested in them by this Act upon such rent reserved and such conditions, and for such term, not exceeding twenty-one years, as they may think fit, as yards or sites for ship building, boat building, storing of timber, storing of coal, storing of merchandise or other property, and erection of workshops or foundries connected with shipping.

Lands vested may be leased for certain purposes.



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42. Whenever the commissioners during the currency of the term of any existing lease or license to occupy any of the land vested in them, or of any lease granted by them under the authority of this Act, desire to take possession of the said land or any part thereof, they may serve on the person to whom the lease or license has been granted, his heirs, executors, administrators, or permitted assigns, and in the manner prescribed herein for the service of a summons, a notice that they require possession; and if within three months from the service of the notice, possession is not given to the commissioners, or their agents, the commissioners may issue their warrant to the Sheriff requiring him to deliver possession of the land, whereof possession is so required, to the person appointed in the warrant to receive the same, and, upon receipt of such warrant, the Sheriff shall deliver possession of the land accordingly, and expel and remove therefrom all persons then in possession without any legal process whatsoever, and as effectually as if he were acting under a writ of *habere facias possessionem* issued on judgment in ejectment, and the costs accruing by reason of the issuing and execution of the warrant shall be settled by the Sheriff, and shall be paid by the person failing or refusing to give possession; and the amount of costs so settled shall be deducted and retained by the commissioners from the compensation, if any, payable for dispossession under the powers hereinafter contained; or if no such compensation is payable, or if the amount of the said costs exceeds such compensation, the said amount or such excess if not paid on demand shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

Power of commissioners to resume possession of the land the subject of a lease or license.

43. Whenever any lessee or licensee, his executors, administrators, or permitted assigns, is or are dispossessed under the powers by this Act conferred on the commissioners, the commissioners shall pay to him or them compensation therefor, and the amount thereof shall be settled in the manner prescribed in the ~~Public Works Act of 1888~~, **Lands for Public Purposes Acquisition Act**, and any Act amending the same.

Commissioners to pay compensation for dispossessing.

*Work to be done and duties to be performed by the commissioners.*

44. All works constructed and carried out under the provisions of this Act shall be constructed and carried out by the ~~Minister or~~ by the commissioners as may be determined by Parliament and shown by the estimate submitted to Parliament.

Works to be carried out by Minister or commissioners.

45. All works constructed under the provisions of this Act, and all salaries payable under this Act, and all expenses of carrying out the provisions of this Act, shall be paid for by money voted for that purpose by Parliament. And such works may be carried out subject to sufficient funds being voted by Parliament, but without further or other authority than this Act.

Funds for purposes of Act.



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46. (1) The commissioners may construct and enclose any wharf, dock, pier, jetty, landing-stage, slip, or platform, or remove, alter, or repair the same. Commissioners may construct wharfs, sheds, &c.

(2) They may also authorise the construction of any wharf, dock, pier, jetty, landing-stage, slip, or platform, tramway, railway, or hoisting cranes, shears, or engines, on such waterside frontages or on such land as may be subject to any lease or license granted by them.

(3) They may construct such depôts and sheds for the reception of goods, and may construct and erect such steam-engines, cranes, hoisting and weighing machines, and other apparatus for facilitating the loading and discharging or the masting or unmasting of vessels or the testing of chains and anchors, and provide such other conveniences upon or near the wharfs, docks, piers, jetties, landing-stages, slips, or platforms as they may think expedient for the trade of the port, and may make reasonable charges for the use of any such depôt, sheds, steam-engines, cranes, hoisting and weighing machines, and other such apparatus and conveniences as aforesaid.

47. (1) The commissioners may, for the purpose of maintaining and improving the navigation of the rivers and channels within the port, dredge, cleanse, and scour the said rivers, and alter, deepen, cleanse, scour, dredge, cut, enlarge, and otherwise alter and improve the bed of the said rivers and channels; and may reduce or remove any banks or shoals whatsoever within the said rivers and channels; and may abate and remove all impediments, obstructions, and annoyances, and all nuisances and abuses whatsoever in the said rivers and channels, or on the banks and shores thereof, which may now or at any time hereafter be injurious to the said rivers and channels, or obstruct, or tend to obstruct the free navigation thereof: Provided that nothing herein contained shall extend to any sewer duly authorised and constructed by any department of the Government. Commissioners empowered to dredge, cleanse, and scour rivers, &c.

(2) They may remove, scour, and take away any shoal, mud-bank, or other accumulation which impedes the navigation of the port, and may shorten any bend or remove any angle in the course of the rivers within the port. Power to remove any shoal, mud-bank, or accumulation in the port, and shorten bends of the river.

(3) They may cut the banks of the rivers within the port for the purpose of making, enlarging, or repairing any dock or canal, or any drain, sewer, or water-course, or altering, laying down, or repairing any suction, or other pipe, or for any other purpose whatsoever, and may authorise any person to cut the banks for any of the purposes aforesaid, under such restrictions and upon such terms and conditions as they may think proper to impose. Banks may be cut.

(4) They may place and lay down or take up within the port such buoys and beacons as may be necessary and convenient for the navigation of the port. Buoys and beacons.



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48. The commissioners may ~~subject to the approval of the~~ Commissioners may  
~~Minister,~~ enter, by their corporate name, into contracts with any make contracts, &c.  
persons for the execution of any work authorised by this Act to be  
done by them, or which they may think proper to do, or to direct to  
5 be done, under or by virtue of the powers conferred by this Act, or  
for furnishing materials or labour, or for providing proper engines or  
other power, or for any other matters and things whatsoever necessary  
for enabling them to carry the purposes of this Act into full and  
complete effect, in such manner, and upon such terms, and for such  
10 sum of money, and under such stipulations, regulations, and restric-  
tions as they may think proper.

49. The powers hereby granted to the commissioners to make Contracts by the  
contracts may lawfully be exercised as follows (that is to say) :— commissioners how  
to be entered into.

15 With respect to any contract which if made between private  
persons would be by law required to be in writing and under  
seal, the commissioners may make such contract in writing  
in the corporate name of the commissioners under their  
common seal, and in the same manner may vary or discharge  
the same.

20 With respect to any contract which if made between private  
persons would be by law required to be in writing and  
signed by the parties to be charged therewith, the commis-  
sioners may make such contract in writing in the corporate  
name of the commissioners signed by the secretary and by  
25 any two of the commissioners, and in the same manner may  
vary or discharge the same.

And all contracts made according to the provisions herein contained  
shall be effectual in law, and shall be binding upon the commissioners  
and all other parties thereto, their successors, heirs, executors, or  
30 administrators, as the case may be ; and on any default in the execu-  
tion of any such contract, either by the commissioners or by any other  
party thereto, such actions or suits may be brought either against or by  
the commissioners in their corporate name as might be brought had  
the same contract been made between private persons only : Provided  
35 that no contract, the amount whereof exceeds five hundred pounds,  
shall (except in cases of emergency) be made, except after public  
tender of which public notice shall be given, but the commissioners  
shall not be bound to accept the lowest tender.

50. It shall be lawful for the commissioners, with the approval Commissioners may  
40 of the Minister, at a meeting specially called for that purpose, of which compound for breach  
meeting three days' notice shall be given, to compound and agree with of contracts.  
any person who has entered into any contract in pursuance or under  
the authority of this Act, or against whom any action or suit has been  
brought for any penalty contained in any such contract or in any bond  
45 or other security for the performance thereof, or for or on account of  
any



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any breach or non-performance of any such contract, bond, or security for such sum of money or other recompense as the commissioners may think proper.

51. The commissioners may appropriate particular wharfs, 5 docks, piers, jetties, landing-stages, or platforms, or portions thereof respectively to the use of steam vessels, either exclusively or in conjunction with sailing vessels, or to the use of any vessels engaged in particular trades, or to the use of any other vessels or class of vessels, or under any other circumstances which may render such appropriation 10 expedient.

Commissioners may grant exclusive right to portions of wharfs, &c.

52. The commissioners may, upon such terms and conditions, and upon payment of such rents or other sums of money, and subject to such restrictions and regulations as they may think proper, lease or set apart and appropriate any particular portion of any wharf, dock, 15 pier, jetty, landing-stage, or platform, shed, warehouse, or other works, with the appendages thereunto, for the exclusive accommodation of any person engaged in carrying on any particular trade who is desirous of having such exclusive accommodation for the reception of the vessels and goods belonging to or employed and conveyed by them. All 20 persons to whom such exclusive accommodation as aforesaid is afforded, and their vessels, crews, and servants, and other persons employed by them or under their control, shall be subject to regulations to be made by the commissioners.

Powers to set apart portions of works for special purposes.

53. No person shall add to or alter any wharf, dock, pier, jetty, 25 landing-stage, slip, or other work now being upon the bed or shore of the port, or shall erect, build or make any embankment, or any erection, building, or work in or upon the bed or shore of the port, or drive any piles thereon or therein without the license of the commissioners.

No erection without consent of commissioners.

54. The commissioners, subject to such restrictions as the 30 Governor may think fit, upon the payment of a fair and reasonable consideration, and subject to such regulations and restrictions as they may think proper, may grant licenses for the formation of such recesses or docks, wharfs or quays, and the driving of such piles and 35 other works as may be required for the convenient use, protection, and improvement of premises, and the placing and mooring of vessels in such line, and at such levels as may appear to them requisite for the above purposes, without injurious interference with the navigation of the port or its future improvement.

Commissioners empowered to grant licenses for the formation of recesses or docks and wharfing.

55. The Commissioners, upon such terms and conditions as 40 they think fit, may grant licenses for the erection by the owners or occupiers of lands adjoining the port at any convenient places, of piers or landing-places of such form and construction as the commissioners consider most advantageous to the public, and as 45 causing the least obstruction to navigation, and for the driving of piles and the formation of wharfing-ways and other conveniences to the adjoining premises.

Commissioners may grant licenses for the erection of piers and jetties.

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The Commissioners may order the form and construction of such piers or landing-places, and the position of such piles, and the mode of forming such wharfing-ways and other conveniences to be altered by the owners of or persons licensed to erect, drive, or  
5 form the same, and may also order any such piers or landing-places, piles, wharfing-ways, and other conveniences to be removed and taken away by the owners thereof, or the persons licensed to erect, drive, or form the same; and in case any such pier, landing-place, piles, wharfing-way, or other convenience is not altered or removed  
10 within seven days after notice from the commissioners to alter or remove the same has been given to the owner thereof, or to the person licensed to erect, drive, or form the same, such pier, landing-place, piles, wharfing-way or other convenience, may be removed by the commissioners at the expense of such owner or person.

15 **56.** The commissioners may grant to the owner or occupier of any land fronting and immediately adjoining any portion of the port a license to make any wharf, dock, basin, pier, jetty, landing-stage, slip, or platform, or any embankment wall, or other work immediately in front of his land and into the body of the said port, upon  
20 payment of such fair and reasonable consideration and subject to such other conditions and restrictions as the commissioners may think fit.

Owners of land may  
embank with consent  
of commissioners.

**57.** If any vessel is sunk or stranded within the port, the commissioners may forthwith seize and attach such vessel and any goods therein until security is given to the satisfaction of the com-  
25 missioners for the due removal of such vessel and goods; and if the owner, master, or agent does not provide such security or does not remove and take away such sunk or stranded vessel, or the wreck thereof, within such time as the commissioners, in writing, require, the commissioners may then raise, destroy, remove, or take away  
30 such wreck of any vessel that is sunk or stranded, and is in their judgment an obstruction to the safe and convenient navigation and use of the port; and in case the owner, master, or agent of such vessel, or other obstruction, refuses or neglects to pay the charge of raising, destroying, removing, or taking away such vessel, wreck,  
35 or goods for the space of three days after demand, or in case any such owner, master, or agent cannot be found, then the commissioners may sell such vessel, wreck, and goods, and out of the proceeds of such sale retain the expense incurred in raising, destroying, and removing such vessel, wreck, and goods, and the charges of sale, rendering the over-  
40 plus to the person entitled to the same; and if from such proceeds sufficient to pay all the aforesaid charges is not recovered, then the amount of any deficiency shall be a lien or charge on any vessel, goods, or money belonging or payable to the owner of any such vessel so sunk or stranded as aforesaid, which may be then, or at any time  
45 within the period of twelve calendar months thereafter in the Colony  
of

Power to remove  
wrecks, &c.



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of New South Wales in the hands of any agent or other person on behalf of any such owner, subject and without prejudice to any prior lien or charge in favour of any other person. The lien or charge hereby given to the commissioners may be enforced by proceedings  
5 in the Supreme Court to be instituted by the commissioners against such owner, agent, or other person, and service of all process in any such suit shall be held good and binding on any such owner if such service has been duly effected on any such agent or other person :

Provided that in no case the amount for which such owner is  
10 liable, or for which such lien is claimed, shall exceed the amount of the value of the vessel and the freight then due ; and such value shall be estimated at the rate of eight pounds per ton of such vessel's tonnage :

Provided further that when the sinking or stranding of such vessel is the result of accident or of causes beyond the control of such  
15 owner (of which the finding of the Court of Marine Inquiry shall be conclusive evidence), such owner shall not be liable for any portion of the cost incurred in raising, destroying, or removing such wreck which may exceed the sum realised by the sale of the wreck of such vessel.

58. It shall be lawful for the commissioners, and they are  
20 hereby directed when any obstruction impedes the navigation and use of the port or any part thereof (of which obstruction the commissioners shall be the sole judges), to require the owner or occupier of such obstruction, by notice given or sent to him, to remove such obstruction as aforesaid within a time to be stated in  
25 such notice ; and should such owner or occupier fail, neglect, or refuse to remove the obstruction stated in such notice, the commissioners shall remove the same, and the expenses of so doing shall be repaid by the owner of the same, and the commissioners may detain the materials of such obstruction for securing payment of such  
30 expenses, and on non-payment of such expenses on demand may sell such materials, and out of the proceeds of such sale pay such expenses, rendering the overplus, if any, to the owner on demand. If the proceeds of the sale are not sufficient to pay the said expenses, or if the commissioners, without proceeding to such sale, so determine, the  
35 commissioners may sue the said owner or occupier for the recovery of such expenses.

59. (1) The commissioners shall make and maintain proper  
roads and approaches to all wharfs, docks, piers, jetties, landing-  
stages, slips, platforms, depôts, and sheds that are now or may  
40 hereafter be erected on the lands vested in them ; and they shall cause such wharfs, docks, piers, jetties, landing-stages, slips, platforms, depôts, and sheds, and the roads and approaches thereto, to be kept in good repair, and well and sufficiently lighted, watched, and cleansed.

(2) The commissioners may appoint a sufficient number  
45 of persons to preserve order on or at such wharfs, piers, jetties, landing-stages  
Persons may be appointed to preserve order, &c., at piers.

Obstructions may be removed.

Roadways to be kept in order and lighted.



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landing-stages and platforms, and the avenues and approaches thereto, and to prevent the intrusion thereon of improper persons who have no *bona fide* intention of embarking on board any vessel from such wharfs, docks, piers, jetties, landing-stages, or platforms, and to remove  
 5 any persons who may unnecessarily linger or loiter on or about such wharfs, docks, piers, jetties, landing-stages, or platforms, and to assist any vessel in making fast to such piers or landing-places.

60. The commissioners may remove any broken, dangerous, or  
 10 useless piles or mooring chains and other nuisances, and may order the removal or shortening of any waterways, causeways, stairs, or other projections injurious to the navigation of the port.

61. The commissioners may, if they think fit, grant licenses  
 15 for the supply and removal of ballast, and for the supply of water to shipping, by means of water tanks, subject to such regulations as the commissioners may make. And no person shall dredge for ballast in the bed of the port, or take or supply any ballast within the port, or supply water to shipping as aforesaid, without a license from the commissioners; and any person offending against this section shall be liable to a penalty not exceeding twenty pounds.

20 62. The commissioners may by notice in writing prohibit any person from raising or taking any ballast or any materials for ballast in any place or places in or from which the raising or taking of ballast or materials for ballast may, in the judgment of the commissioners,  
 25 be injurious to the navigation of the port, or to the due execution of the works to be directed by them; and any person who, after the delivery to him of any such notice as last aforesaid, raises or takes any ballast or materials for ballast in contravention of any such notice shall be liable to a penalty not exceeding twenty pounds.

63. Subject to the provisions of this Act the commissioners  
 30 may demand and take as consideration for any license granted by them such fees, either in gross, or by annual or other periodical payments, as the commissioners may, by their regulations determine.

64. The commissioners may purchase, provide, and maintain  
 35 all such apparatus, matters, and things as may appear to them to be necessary to assist in searching for drowned persons and restoring animation to persons apparently drowned, and to employ and reward assistants therein in such manner as to the commissioners may seem expedient.

65. The commissioners may purchase and maintain any such  
 40 appliances, matters, and things as may appear to them to be necessary for the purpose of extinguishing any fire on vessels, or on any property vested in them.

66. The commissioners shall, on the thirtieth day of June and  
 45 thirty-first day of December in every year, render and deliver to the Minister a true and correct schedule containing full particulars of all sales,

Broken piles, &c., to be removed.

Licenses for supply and removal of ballast, &c.

The commissioners may prevent ballast from being taken in places where its removal might be injurious to the navigation.

Power to demand fees for licenses.

Humane apparatus and assistance may be provided.

Fire-extinguishing apparatus may be provided.

Annual statement of accounts of all moneys received for sales, &c., of bed of port to be sent to the Minister.



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sales, leases, grants and licenses for docks, recesses, beds for boats or barges, wharfs, piers, landing-places, piles, mooring-chains, or works of any description of, in, or upon any portions of the said lands or bed or shores of the port, or any encroachments, embankments, and inclosures thereupon, and also a true and correct account of all sums of money which they or any person or persons by their order or to their use have received during the half-year then ending on the thirty-first day of December immediately preceding for or in respect of any such sales, leases, grants, and licenses, and for or in respect of any permission, and of all rents, revenues, and proceeds of what nature or kind soever; the said accounts to specify the particular source from which all and every such sums of money, rents, and profits have been derived, and to be from time to time verified as being true and correct accounts by a statutory declaration in writing under the hand of the treasurer of the commissioners.

67. The commissioners may construct and erect public baths, and charge such fees for admission thereto or lease the same as they may determine. Power to erect public baths.

## PART IV.

## RATES, &amp;c.

68. (1) The commissioners shall demand, collect, and receive in respect of all vessels berthed at any wharf, dock, pier, jetty, landing stage, slip or platform vested in the commissioners, or in respect of all goods, merchandise, and things whatsoever (except goods belonging to Her Majesty's Government and passengers' luggage) shipped on or unshipped from any vessel (whether such goods, merchandise, or things are landed or not); so berthed wharfage and tonnage rates, according to the provisions contained in the Wharfage and Tonnage Rates Act of 1880 and Acts amending the same, which Acts are, *mutatis mutandis*, hereby incorporated with this Act, so far as the said Acts relate to the port of Sydney, subject to the provisions hereinafter mentioned; and all the powers therein contained are hereby conferred upon the commissioners: Provided that goods, merchandise, and things unshipped from any vessel to any other vessel for conveyance to another port, shall not be subject to any wharfage if a transshipment entry in respect thereof is duly passed at the Custom-house within forty-eight hours after the time at which the discharging vessel has reported at the said Custom-house. And until the commissioners are appointed otherwise provide, the rates to be demanded, collected, and received, shall be those in force at the passing of this Act: Provided that the Governor may make regulations for the remission, exemption, or reduction of wharfage rates, in such cases and subject to such conditions as he shall deem advisable. Power to collect tolls and rates and charges.

(2)



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(2) The words "Governor with the advice of the Executive Council" shall, wherever they occur in the said Acts, be read as if the same were "commissioners, with the approval of the Governor." And the words "Colonial Treasurer" shall be read as if the same were the word "Minister."

69. The commissioners may, by regulation approved by the Governor, alter, raise, and lower at discretion any wharfage or tonnage rates, which the commissioners are authorised to demand, collect, and receive under this Act: But such rates shall not exceed the amounts provided for in the said Acts and in the Second Schedule of the Wharfage and Tonnage Rates Act of 1880:

Provided that, in lieu of the wharfage rates in the said Schedule mentioned, the commissioners may charge wharfage rates by measurement or weight, not exceeding four shillings per ton dead weight or three shillings per ton measurement.

70. It shall be lawful for the commissioners to demand, collect, and receive in respect and for the use of any of the property of the commissioners such tolls, rates, and charges as the commissioners may determine and appoint by regulations under this Act.

71. The collection of tolls, rates, and charges authorised by this Act shall be prescribed by regulations under this Act; and for the convenience of such collection the Colonial Treasurer may, if he thinks fit, provide, at the cost and charges of the Commissioners, in the public office or long room of the custom house, accommodation for any officer or officers whom the commissioners may direct to receive and collect such tolls, rates, and charges.

72. The commissioners may, when default is made in the payment of any tolls, rates, or charges in respect of any goods (first paying the customs duties and dues, if any), retain and sell the said goods, or any part thereof; and after reimbursing themselves the amount of such duties and dues, the commissioners shall retain and pay in the first place the tolls, rates, and charges so unpaid as aforesaid, including the expenses of such sale, and in the next place the freight due on such goods (in case the commissioners have received written notice that such freight has not been paid), rendering the surplus (if any), and also such of the said goods as remain unsold (the rates due in respect whereof having been discharged as aforesaid) to the person entitled thereto on demand. In lieu of selling such goods, or notwithstanding such sale, if the proceeds of such sale are insufficient, the commissioners may, by action of debt in the Supreme or a District Court, recover the amount of such tolls, rates, charges, and expenses, as are due to them.



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## PART V.

## FINANCE.

73. The Minister shall, as soon as possible after this Act comes into operation, cause a list to be made of all works, property, and improvements which are by this Act vested in the commissioners as aforesaid. And the Minister shall determine the value at the date of such vesting of such works, property, and improvements to be charged against the commissioners.

Minister to declare  
value of property  
vested in commis-  
sioners.

74. After such determination of such value, the Minister shall, in the month of January in each year, cause a list to be made of the cost of all works, property, and improvements constructed, and the proportionate cost of works in course of construction, or acquired by the commissioners during the preceding year.

Interest on  
subsequent works.

75. All tolls, rates, rents, charges and other sums of money levied or collected by the commissioners shall be collected and received by them or their authorised agents, for the use of Her Majesty, and shall be paid into the Treasury under the provisions of the Audit Act, 1898, and shall in each year be chargeable with such sum, being not less than three and a half and not more than four per centum per annum, as the Minister may from time to time fix, on the value of such works, property, and improvements, so determined as aforesaid, and the cost of all works, property, and improvements constructed or acquired by the commissioners, together with the fees, salaries, and expenses of administering this Act; and so far as funds are available a further sum equal to three and a half per centum per annum on such value and cost to form a sinking fund to pay off any loans contracted in respect of all such and subsequent works, property, and improvements, according as the Governor may think fit; and the balance shall be carried to the Consolidated Revenue Fund.

Interest to be paid  
thereon.

76. The commissioners shall cause books to be provided and kept, and a true and regular account to be entered therein, of all sums of money received by them under this Act, and of the cost of all works, property, and improvements vested in them, and of all payments made by them under the provisions of this Act, and of the salaries and maintenance of the officers and servants. All such books shall be open to the inspection of the commissioners and the Auditor-General, and any person authorised to inspect the same by the Minister or the Auditor-General, and all such persons may take copies or extracts therefrom. And any clerk or other person having the custody of the said books, who does not on demand permit any person aforesaid to examine the said books and take such copies or extracts therefrom, shall forfeit and pay for every such offence a sum not exceeding five pounds.

Sinking fund to be  
formed.



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77. The accounts of all moneys received and disbursed by the commissioners shall be audited at least once in every year by the Auditor-General, who shall have, in respect to such accounts, all the powers conferred on him by the Audit Act, 1898, in respect of public accountants; and the commissioners shall once at least in every year furnish to the Governor a true copy of the accounts so audited as aforesaid, together with a particular statement of all moneys received by the commissioners, and of all expenditure incurred by them; and copies of such accounts and of such statement shall be laid before both Houses of Parliament, if then sitting, or if not then sitting, at the next ensuing Session thereof.

Accounts to be audited and furnished.

## PART VI.

## REGULATIONS.

78. All rules and regulations legally made under the Wharfrage and Tonnage Rates Act of 1880 and any Act amending the same shall, in so far as they contain nothing inconsistent with this Act, remain in force within the port until repealed by regulations under this Act, or until others have been enacted in lieu thereof by the commissioners, but so much as may be inconsistent with this Act is hereby repealed.

Existing regulations to have force until repealed.

79. The Governor may make regulations for and relating to the following subjects:—

Regulations by Governor.

(a) The cases in which wharfrage rates may be remitted, exempted, or reduced.

(b) The formation of a sinking fund and its application in pursuance of this Act.

80. The commissioners may make regulations for and relating to the following subjects:—

Regulations by commissioners.

(a) The appointment of the place and hour of their meetings, and the management and conduct of business thereat.

(b) The control, supervision, and guidance of all officers subject to their control and the control and management of all property vested in or belonging to the commissioners.

(c) The mode of leasing and licensing under this Act.

(d) The construction of wharfs, docks, piers, jetties, or embankments, and of sheds thereon; of canals, landing-stages, slips, platforms, tramways, or hoisting cranes, shears, or engines.

(e) The dredging, cleansing, and scouring the rivers within the port, and the improving the bed or channel thereof; and abating and removing wrecks, impediments, obstructions, and nuisances in the port, or to the navigation thereof; and the shortening any bend, or removal of any angle in the course of the rivers.

(f)



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- (*f*) The management and mode of making contracts by the commissioners and the performance of the same.
- (*g*) The supply of, and all matters relating to, ballast water for shipping, and the use of steam hoists on wharfs or jetties within the port.
- 5 (*h*) The improvement and management of the port.
- (*i*) The imposing, levying, and receiving of all tolls, rates, or charges.
- 10 (*j*) The regulation and government of ferry steamers and boats within the port.
- (*k*) The anchoring, mooring, riding, and fastening of vessels, and the stiffening, removal, and control of vessels, whether under way, at anchor, at a wharf, pier, jetty, or landing-place, afloat or aground, hove down, or hauled up, or in dock within the port.
- 15 (*l*) The regulation and control of the use of sanitary conveniences, lights, and fire on board any vessel within the port.
- (*m*) The manner of boiling or melting pitch, tar, resin, turpentine, or any inflammable substance within the port.
- 20 (*n*) The mode of inquiry into any charges brought by or against any person subject to the Harbour Trust Commissioners.
- (*o*) The communication between wharfs, docks, piers, jetties, landing-stages or platforms and vessels within the port by means of gangways or otherwise.
- 25 (*p*) The imposing of penalties for any breach of any regulations by this Act authorised to be made, not exceeding for any offence the sum of one hundred pounds, nor less than one pound.
- 30 (*q*) The erection of baths and bath-houses within the port, and leasing the same; making excavations for salt-water baths; and any fence or enclosure necessary for the protection or privacy of the same.
- 35 (*r*) The repeal of any regulations made by the Governor under the Wharfage and Tonnage Rates Act of 1880 and any Act amending the same, and the making of any such regulations as the Governor might make under those Acts.
- (*s*) Any other purpose relating to the convenience of shipping or of the public within the port, or for any local enterprise or object which the Governor may approve.
- 40 And generally for duly administering and carrying out the powers vested in the commissioners by this Act.

Any breach of such regulations for which no specific penalty is therein provided shall be punishable by a fine not exceeding one hundred pounds. Breaches of regulations punishable by fine.



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81. Every regulation shall, upon approval of the Governor, and notification in the Gazette, have the force of law; and shall be laid before Parliament within fourteen days after such notification, if Parliament be then in Session, and if not then within fourteen days 5 after the commencement of the next ensuing Session.

Regulations to be approved by Governor and published in Gazette.

PART VII.

MISCELLANEOUS.

82. Nothing contained in this Act shall be construed to repeal any provision of any Act relating to any Government or other railways, 10 to affect the rights, powers, privileges, and obligations conferred or imposed by any such Act; or to repeal or affect any provisions of the Navigation Act of 1871, or of any Act amending the same, save and except where the express provisions of this Act are inconsistent therewith, or where such provisions are hereby repealed.

15 83. No legal proceedings of any nature shall be instituted or brought against the commissioners for or in respect of not dredging, cleaning, or scouring the port, unless the Attorney-General signifies in writing his consent to the bringing or instituting of such proceedings, and on such conditions as to security for costs as he may think fit.

20 84. (1) The owner of every vessel shall be, and he is hereby made, liable for all trespasses, damages, spoil, or mischief done by such vessel or by any of the boatmen or other persons belonging to or employed in or about the same by any means whatsoever to any 25 of the property or effects of the commissioners or the banks or other works erected, maintained, or repaired under the provisions of this Act; and the owner of every such vessel shall for every such trespass, damage, spoil, or mischief so committed as aforesaid, upon conviction of the person so committing the same before any justice, on the oath of any credible witness, or on the confession of the party 30 offending, pay to the secretary of the commissioners such damages and compensation as may be ascertained, fixed, and determined by such justice, together with all costs, charges, and expenses attending such conviction, provided that such damages and compensation shall not exceed the sum of twenty pounds besides the costs of such conviction; 35 and in case such damages or compensation and costs are not paid on demand the same shall be recoverable in the same manner as any penalty is by this Act directed to be recovered, but in case such damages exceed the sum of twenty pounds the said owner may be sued by the commissioners for such damages or compensation.

Act not to repeal Railway or Navigation Acts.

Consent of Attorney-General necessary before proceedings instituted against commissioners.

Owners accountable for damage done by boatmen to works or property of the commissioners.



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(2) Every such boatman or other person so offending shall be liable for, and shall repay all damages and compensation so ascertained, fixed, determined, and recovered as aforesaid, with all the costs of levying and recovering the same to his master or such owner; and in case of non-payment thereof on demand and on oath made by such master or owner of the payment made by him of such damages, compensation, and costs, and that the same have been demanded of such boatman or other person, but that the same have not been repaid (such oath to be made before any justice), the amount thereof shall be recovered in like manner as any penalty is hereby directed to be levied and recovered by warrant under the hand and seal of such justice.

Boatmen to be answerable to their masters for all such damages and costs.

85. In case any person complains of the operation of any regulation of the commissioners, or of any determination or proceeding of the commissioners, or of the conduct of any of their officers, he shall, on an application in writing to the commissioners stating the substance of his complaint, be entitled to have his complaint inquired into.

Inquiry into complaints.

86. Every person who unloads, puts, or throws into any part of the port or on any shore or ground in the port below high-water mark at ordinary tides, any rubbish, earth, ashes, dirt, mud, soil, or other matter, or allows any offensive matter to flow into the port, shall forfeit for every such offence any sum not exceeding one hundred pounds.

Penalty on throwing ballast out of vessels into the port.

87. If any person pulls down or injures any board put up or required by this Act for the purpose of publishing any regulation, notice, or penalty, or obliterates any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalty for defacing boards used for such publications.

88. If, through any act, neglect, or default on account whereof any person has incurred any penalty imposed by this Act, any damage to the property of the commissioners has been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty, and the amount of such damage in case of dispute shall be determined by the stipendiary magistrate by whom the party incurring such penalty has been convicted; and on non-payment of such damage on demand the same may be levied by distress, and any justice may issue his warrant accordingly.

Damages to be made good in addition to penalty.

89. The commissioners shall publish short particulars of the several offences for which any penalty is imposed by this Act or by any regulation of the commissioners affecting other persons than the officers or servants of the commissioners, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, and shall cause such board to be hung up or affixed in some conspicuous place in the office of the commissioners.

Publication of penalties.



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90. (1) All penalties and other sums of money by this Act, or any regulations made thereunder, made payable or recoverable may be recovered with costs, and all offences by this Act made punishable may, unless declared to be misdemeanours, be prosecuted and punished, and the costs of such prosecution recovered, at the suit of any person, by summary proceeding before a stipendiary magistrate.

(2) Whenever any penalty has been imposed by any stipendiary magistrate, under the provisions of this Act, and the person convicted does not forthwith pay the same into the hands of the convicting magistrate such magistrate may direct that such penalty be recovered by distress and sale of the goods and chattels of such person, and in default of a sufficient distress, or in the discretion of such magistrate, without making any order or issuing any warrant for such distress, he may direct that such person be imprisoned in any gaol in New South Wales, with or without hard labour, for any period authorised by law.

91. In all cases where any damages, costs, or expenses are by this Act directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by a stipendiary magistrate, and if the amount so ascertained is not paid by the commissioners or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the commissioners or other party liable as aforesaid; and the magistrate by whom the same have been ordered to be paid, on application, shall issue his warrant accordingly.

92. Where in this Act any question of compensation, expenses, charges, or damages is referred to the determination of any stipendiary magistrate, it shall be lawful for any justice, upon the application of either party to summon the other party to appear before a stipendiary magistrate at a time or place to be named in such summons, and upon the appearance of such parties, or in the absence of them upon proof of due service of the summons, it shall be lawful for such magistrate to hear and determine such question, and for that purpose to examine such parties or any of them and their witnesses on oath, and the cost of every such inquiry shall be in the discretion of such magistrate, and he shall determine the amount thereof.

93. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

94. If in any legal proceeding under this Act any question arises whether any vessel is or is not within the provisions of this Act, or of some particular part thereof, such vessel shall be taken to be within such provisions unless proof to the contrary is adduced.

95.



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95. It shall be lawful for the commissioners to sue and take any proceedings against any person who steals, takes, or carries away, wilfully defaces, or injures any property, article, or thing belonging to the commissioners, and in every such case it shall be sufficient to state generally the property, article, or thing in respect of which such proceedings have been taken to be the property of the commissioners by their corporate name.

How proceedings  
to be taken.

96. Any summons, notice, writ, or other proceeding at law or in equity required to be served upon the commissioners, may lawfully be served by delivering the same personally to the secretary, or by leaving the same at the office of the commissioners.

Service of notice on  
commissioners.

97. Service of any summons or other process in any legal proceeding under this Act shall be deemed good service if made personally on the person to be served, or if made to any person at his last known place of abode or business, or on board any ship to which he belongs, and accompanied in the latter case with a statement of the purport thereof to the person in command or appearing to be in command or charge of such ship.

Service to be good if  
made personally, or  
at abode, or on board  
of ship, &c.

98. Every summons, demand, or notice or other like document given under the provisions of this Act shall be sufficiently authenticated if signed by the secretary or by any one commissioner, and need not be sealed with the common seal of the commissioners.

Authentication of  
notices, &c.

99. It shall be lawful for any officer or agent of the commissioners, and all persons called by him to his assistance, to seize and detain any person who has committed any offence against the provisions of this Act or any regulation made in pursuance thereof, and whose name and residence is unknown to such officer or agent, and convey him with all convenient despatch before a stipendiary magistrate, without any warrant or other authority than this Act, and such magistrate shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Transient offenders.

100. The commissioners of the one part, and the council of the city of Sydney, or the council of any municipality whose district adjoins the port, of the other part, may, for the purpose of providing convenient ways to and from any of the lands, wharfs, docks, piers, jetties, landing-stages, slips, platforms, depôts or sheds of the commissioners, enter into and perform such contracts as they may deem fit with respect to constructing, repairing, or maintaining any street, road, bridge, or approach, or any part thereof, within the limits of the said city, borough, or municipal district as the case may be, either by apportioning the work to be done, or by sharing the expenses thereof, or otherwise in the absolute discretion of the contracting parties.

Power to contract  
with municipalities  
as to streets and  
roads.

101. The Governor may, upon the request of the commissioners and of the council of any such municipality as aforesaid, declare by

The Governor with  
consent of commis-  
sioners may proclaim  
highways.



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by notice in the Gazette any land vested in the commissioners to be a public highway under the management and control of that council, and such highway shall be treated in all respects as if it were within that municipality and dedicated to the public.

5      **102.** Whenever any day appointed for any purpose by this Act or the regulations of the commissioners happens to be a Sunday or a bank holiday throughout New South Wales, then the next following day which is not a Sunday or a bank holiday throughout New South Wales shall be treated as the day appointed for the purpose. Provision for case of any day appointed falling on a Sunday or holiday.

10      **103.** The production of a copy of the Gazette containing what purports to be regulations of the commissioners approved of by the Governor shall be received in all legal proceedings as evidence of the regulations of the commissioners, and the term "regulations" is to be understood to include the alteration or repeal of any regulations. Gazette to be evidence of regulations.

15      **104.** All penalties recovered for offences against this Act or against any regulation made under this Act shall be paid to the commissioners, and the proceeds of such penalties are hereby appropriated for the purposes of this Act. Application of penalties.

## SCHEDULES.

20

## SCHEDULE ONE.

*Repeal of Acts.*

Year and number of Act.	Title of Act.	Extent of repeal.
25      35 Vic. No. 7 ...	Navigation Act of 1871 ...	So much of sections 19 and 55 and the unrepealed enactments of sections 107 to 122 inclusive, amended by 36 Vic. No. 30, and 60 Vic. No. 36, and Act No. 32 of 1899, as relates to the Port of Sydney, and is inconsistent with this Act.
30      36 Vic. No. 30...	Navigation Act Amendment Act of 1873.	So much of sections 14 and 16 as relates to the Port of Sydney.
35      43 Vic. No. 13...	Navigation Act Further Amendment Act of 1879.	ss. 2 and 3.
44 Vic. No. 8 ...	Wharfage and Tonnage Rates Act of 1880.	s. 18.
40      46 Vic. No. 8...	Wharfage and Tonnage Rates Act Amendment Act of 1882.	The whole Act so far as it relates to the port of Sydney.
48 Vic. No. 18	Crown Lands Act of 1884...	So much of sections 64, 65, and 68 as relates to reclamations within the Port of Sydney.
45      58 Vic. No. 18	Crown Lands Act of 1895...	So much of section 54 as relates to reclamations within the Port of Sydney.

## SCHEDULE



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## SCHEDULE TWO.

All that area within the following boundaries, exclusive of Garden Island, Spectacle Island, Shark Island, Clarke Island, and Cockatoo Island: Commencing at high-water mark on the southernmost point of the North Head of Port Jackson; 5 and bounded thence by a line south-westerly to high-water mark on the northernmost point of the inner South Head; thence by a line southerly closely following high-water mark till it meets the prolongation south-westerly of the north-western boundary of two roods twenty-eight perches, purchased by the Crown for use as a pilot station at Watson's Bay; thence north-easterly, south-easterly, and south- 10 westerly by the said prolongation, the north-western, north-eastern, and south-eastern boundaries of the said purchased land and the prolongation south-westerly of the last-mentioned boundary to high-water mark; thence again by a line closely following high-water mark around all bays, coves, rivers, creeks, inlets, indentations, points, promontories, headlands, &c., on the southern shores of Port Jackson to the eastern 15 side of Woolloomooloo Bay, at its intersection with the northern boundary of the area resumed for wharfage purposes by Gazette notice of the fourth day of February, one thousand eight hundred and ninety; thence by the north-easterly, easterly, and southern boundaries of that area to the intersection of the last-mentioned boundary with the existing wrought-iron palisade; thence by that palisading and its prolongation 20 south-westerly to the easternmost corner of the existing wrought-iron palisading at Cowper's Wharf; thence by that palisading and the southern sides of the erections along that wharf to the south-western corner of shed known as number nine, now leased to M<sup>r</sup> Arthur and Company; thence by a line westerly to the eastern boundary of the Domain; thence by that boundary, as fenced, northerly to the westerly extension 25 of the southern boundary of the ladies' baths; thence easterly by that extension to high-water mark on the western side of Woolloomooloo Bay; thence again by high-water mark around all bays, coves, rivers, creeks, inlets, indentations, points, promontories, headlands, &c., to the eastern side of Bennelong Point, at a point due east of the north-eastern extremity of Fort Macquarie; thence by a line north- 30 westerly to the south-eastern corner of the picket fence on the northern side of the approach to the horse-ferry dock; thence by that fence and an iron palisade westerly to an eastern boundary of the Peninsular and Oriental Steamship Company's wharf; thence southerly by the eastern sides of the structures and the connecting iron palisading along the wharfs on the eastern side of Sydney Cove southerly to the 35 south-east corner of the shed used by Burns, Philp and Company (Imperial Japanese Mail Service); thence by a line due south to the southern side of the street known as Circular Quay; thence by that side to the western side of Pitt-street; thence by the extension of that side of Pitt-street northerly to the northern boundary of twenty-seven perches appropriated in the year one thousand eight hundred and fifty- 40 six as a site for Mariners' Church; thence by that boundary westerly to the eastern side of George-street; thence north-westerly to the western side of the road leading to the horse-ferry dock at Dawes' Point; thence by that side of that road generally north-easterly to high-water mark on the north-eastern side of Dawes' Point; thence again by high-water mark as before to its intersection with the western side of George-street 45 North; thence bounded on the east, south-east, south, north-west, and north by the line forming the inner boundary of the land resumed in connection with the Darling Harbour Improvement scheme and notified in the Government Gazette of third of May, one thousand nine hundred, numbered four hundred and fifteen, folio three thousand four hundred and thirty-nine, to the north-east corner of Smith's wharf on the southern 50 side of Bettington-street; thence southerly along part of the eastern side of that property to the north-west corner of Munn-street; thence by part of the northern side of that street easterly to a point in the prolongation northerly of the western side of Dalgety and Company's new brick stores; thence southerly crossing Munn-street to the north-west



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north-west corner of that store and along the western boundary to the south-west corner thereof; thence easterly along the southern boundary of the said store to the most southerly corner of the eastern side of that store; thence south-easterly by a direct line to the south-west corner of Wentworth-street, which is an angle on the eastern boundary of the land recently owned by T. A. Dibbs; thence by the boundary of that land south-easterly, south-westerly, and again south-easterly to the north-western side of Clyde-street; thence by a line easterly crossing Clyde-street to the most northerly corner of the land on the south-eastern side of Clyde-street recently owned by T. A. Dibbs; thence by boundaries of that land south-easterly, south-westerly, and again south-easterly to the north-western side of land recently owned by Archibald McLean; thence north-easterly by the north-western boundary of that land to the western side of the passage bounding that land on the east; thence southerly along the eastern boundary of that land to the south-eastern corner thereof; thence southerly crossing the land recently held by the Municipal Council of Sydney by a direct line to the north-western corner of the land on which house number two Agar-street is erected; thence again southerly by the western boundary of that land, the western boundary of Agar-street, and the western boundary of the land on which house number one of Agar-street is erected to the northern boundary of land recently owned by T. Paton; thence by part of the northern boundary of that land westerly about sixty-two feet to a point thereon in the prolongation northerly of a line of paling fence; thence by that prolongation and that paling fence, and the prolongation southerly of the line of that fence to the northern boundary of land recently purchased by the Australian Gas Light Company (Limited) from Philip Rech; thence by that boundary westerly to the waters of Darling Harbour, being the south-west corner of the land described in Schedule number one of the proclamation of third day of May, one thousand nine hundred, referred to above; thence southerly by the high-water mark of the eastern side of Darling Harbour to the south-west corner of the Australian Gas Light Company's land; thence by three boundaries of that land bearing easterly, southerly, and again easterly to the south-eastern corner of Jenkins-street; thence by the prolongation of the eastern side of that street southerly about fifty feet to a point thereon in the prolongation westerly of the line of the most southern portion of a brick dwelling house; thence by the last-mentioned prolongation and the southern side of the said house and of the land enclosed with same easterly to the cliff; thence by the cliff and the western side of a brick stable southerly to the northern side of the entrance to the Grafton wharf; thence by that side of that entrance easterly to the western side of Kent-street; thence by that side of that street southerly to the south-eastern corner of the said entrance; thence by the southern side of that entrance, westerly to the north-western corner of the Model Lodging-house property; thence southerly by part of the western boundary of that property to the south-east corner of a brick store; thence by the southern side of that store westerly to the north-east corner of the North Coast Steam Navigation Company's workshop; thence southerly by the eastern side of that workshop to the northern side of Napoleon-street; thence by part of the northern side of Napoleon-street easterly, and thence by the eastern side of that street southerly to the north side of Margaret-street, being a point on the boundary of the land resumed on third day of May as aforesaid; thence westerly and southerly by that boundary to the dividing line between stores numbered thirty-nine and forty-one on the western side of Sussex-street; thence by the dividing line between these two stores and the prolongation thereof westerly to a point on the eastern boundary of the land recently held by the Australian Mutual Provident Society as mortgagees in possession; thence by the eastern boundary of that land southerly about twenty-three feet to the north-east corner of the portion of that land occupied by Thomas Turner, wine and spirit merchant; thence by the northern boundary of Thomas Turner's occupation aforesaid westerly to the eastern boundary of land occupied by Halliday Brothers, mechanical engineers; thence by the eastern boundary of that land southerly to the northern side of Erskine-street; thence by that side of that street westerly to a point thereon in the prolongation northerly of the eastern side of Lime-street; thence

by



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by that prolongation and that side of that street southerly to the northern side of Slip-street; thence by the northern side of Slip-street easterly to the western side of Day-street; thence across Slip-street at right angles to the northern boundary of the land recently held by the Australasian United Steam Navigation Company (Limited); thence by three boundaries of that land easterly, south-westerly, and south-easterly to the western side of Sussex-street; thence by the street frontage of that land southerly to the south-east corner of that land; thence along the northern side of store numbered one hundred and seven, Sussex-street, westerly about twenty-seven feet to the north-west corner of that store; thence by the western side of the above numbered one hundred and seven, one hundred and nine, one hundred and eleven, and one hundred and thirteen southerly to the northern side of land recently owned by James Edrop; thence westerly along part of the northern side of that land about one hundred and twenty feet to a passage leading into King-street; thence southerly by the eastern side of that passage to the north side of King-street; thence across King-street south-easterly to the north-western corner of a passage bounding shop number fifteen, King-street, on the east; thence by the western side of that passage southerly to the south-western corner thereof; thence easterly along the northern side of land recently owned by John Struth, by the northern side of that land and the line dividing stores numbered one hundred and twenty-seven and one hundred and twenty-nine, Sussex-street, to the western side of Sussex-street; thence by that side of that street southerly to the north-eastern corner of Bray's store, numbered one hundred and thirty-nine; thence by the northern boundary of that store westerly to its north-west corner; thence by the western side of Bray's stores southerly to the south-western corner of store one hundred and fifty-three; thence by part of the southern boundary of the land recently owned by A. C. Bray and the northern side of Wharf-street westerly to the north-western corner of Wharf-street; thence southerly by the western side of Wharf-street to the northern side of Market-street; thence crossing Market-street and the Baltic Wharf property recently resumed as an approach to Pyrmont Bridge southerly to the north-east corner of that part of the Albion Wharf land recently held under lease by A. McArthur and Company; thence by the western boundary of a lane twenty feet wide bounding that lease and the lease to John Lysaght (Limited) southerly to the south-western corner of the said lane, which is a point on the northern boundary of the land recently owned by Robert Reid and Company; thence by part of the northern boundary of that land easterly to Sussex-street, which is a point on the boundary of the land resumed by the proclamation of the third day of May, one thousand nine hundred, before referred to; thence generally in a southerly direction by that boundary to the waters of Port Jackson; thence again by high-water mark generally westerly to the iron wharves at the head of Darling Harbour; thence by the landward boundary of those wharves and a line northerly to the northern side of Union-street; thence by that side westerly to the western side of Murray-street; thence generally north-westerly by the south-easterly boundaries of the unsold portions of the land resumed for wharfage purposes by Gazette notice of the seventh day of August, one thousand eight hundred and ninety-six, to the southern side of John-street; thence easterly along that side to its intersection with the prolongation southerly of the western boundary of the land resumed for railway purposes at Darling Island by Gazette notice of the fourth day of June, one thousand eight hundred and eighty-nine; thence by that prolongation and the said western boundary northerly to high-water mark; thence again by high-water mark around all bays, coves, rivers, creeks, inlets, indentations, points, promontories, headlands, &c., to the north-western side of the Pyrmont Bridge road; thence by that side of that road south-westerly to the north-eastern boundary of the Auckland Timber Company's property; thence by that boundary north-westerly to high-water mark; thence again by high-water mark along all bays, coves, rivers, creeks, canals, inlets, indentations, points, promontories, headlands, &c., to the mouth of the Parramatta River; thence again by high-water mark of all arms and the right bank of that river upwards to the dam at the town of Parramatta; thence by that dam north-westerly to high-water mark of the left bank of the said river; thence, again, by high-water



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water mark along that bank downwards to its junction with the right bank of Lane Cove River; thence, again, by high-water mark along that bank of that river upwards to the head of navigation; thence by high-water mark of the left bank of that river downwards to its junction with the northern side of Port Jackson; and thence, again,  
5 by high-water mark along all bays, coves, harbours, rivers, creeks, canals, inlets, indentations, points, promontories, headlands, &c., including all arms of Middle and North Harbours, to the point of commencement.

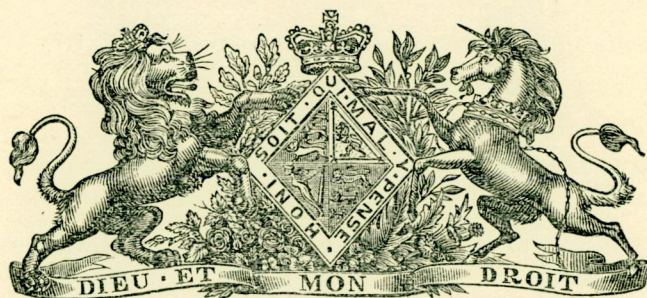


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly Chamber,  
Sydney, 5 September, 1900.* }

F. W. WEBB,  
*Clerk of the Legislative Assembly.*

## New South Wales.



ANNO SEXAGESIMO QUARTO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

Act No. , 1900.

An Act to make better provision for and in connection with the management of the port of Sydney; to establish and appoint the Sydney Harbour Trust Commissioners; to confer on such Commissioners certain powers in relation to such port, including, among other powers, the power to levy and collect certain tolls, dues, rates, rents, and charges, and to purchase and resume lands; to vest certain property in the said Commissioners; and for purposes incidental to or consequent on those objects.

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—



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PRELIMINARY—ss. 1 to 4.

1. This Act may be cited as the “Sydney Harbour Trust Act, 1900,” and shall come into force on the first day of November, one thousand nine hundred, hereinafter in this Act referred to as “the commencement of this Act.” Short title and commencement of Act.

2. The enactments hereinafter contained are arranged under Arrangement of Act. Parts in the order following :—

PART I.—*Constitution of the Sydney Harbour Trust Commission,*  
ss. 5–16.

10 PART II.—*Officers,* ss. 17–26.

PART III.—*Property and powers of commissioners,* ss. 27–67.

PART IV.—*Rates, &c.,* ss. 68–72.

PART V.—*Finance,* ss. 73–77.

PART VI.—*Regulations,* ss. 78–81.

15 PART VII.—*Miscellaneous,* ss. 82–104.

3. In the construction of this Act, each of the following expressions shall have the meaning hereby assigned to it, unless such meaning is inconsistent with the context in which the expression occurs :— Interpretation.

20 “Ballast”—Includes every kind of stone, gravel, sand, and soil, and material commonly used for the ballasting of vessels.

“Buoys and beacons”—Include all other marks and signs placed for the purpose of navigation.

25 “Commissioners”—Sydney Harbour Trust Commissioners constituted under this Act.

“Goods”—Includes wares, merchandise, and articles of whatsoever description.

“Harbour-master”—Includes assistant harbour-master.

30 “Master”—Includes every person having lawfully, or *de facto*, the command, charge, or management of a vessel for the time being.

“Owner of a registered ship”—Includes any person who is the owner jointly with any other person or persons, or any joint stock company registered as the owner.

35 “Owner” when used in relation to goods—Includes any consignor, consignee, shipper, or agent for the sale or custody, loading or unloading of goods, as well as the owner thereof.

“Private owner”—Any person being the owner or occupier of land other than the Crown or any Government Department.

40 “River”—Includes creek.

“Ship”—Every description of vessel used in navigation not propelled by oars.

“Shore”



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- “Shore” means shore so far as the tide flows and reflows, between high and low water-marks.
- “Stipendiary magistrate” includes a deputy or acting stipendiary magistrate.
- 5 “The port”—So much of the port of Sydney, the rivers falling into it with their tributaries, and the land on the margins thereof as is covered at mean high-water.
- “Vessel”—Ship, lighter, barge, boat, raft, craft, or vessel of whatever description and howsoever navigated.
- 10 “Wreck”—Includes jetsam, flotsam, lagan, and derelict.
4. The Acts described in Schedule One are to the extent therein Repeal. indicated hereby repealed.

PART I.

THE COMMISSION.

15 *Constitution of the Commission.*

5. There shall be three commissioners for carrying this Act into execution, who shall be a body corporate by the name of “The Sydney Harbour Trust Commissioners,” and by that name shall have perpetual succession and a common seal, with power to take, purchase, sell, lease and hold lands, goods, chattels, and other property, for the purposes of this Act, subject always to the restrictions herein contained.

6. All courts, judges, and persons acting judicially shall take judicial notice of the incorporation, and of the common seal of the Sydney Harbour Trust Commissioners, affixed to any deed, instrument, or writing, and shall presume that such seal was properly affixed thereto; and such deed, instrument, or writing, when sealed, whether such instrument or writing is required to be sealed or not, shall be admissible in evidence for and against the said commissioners on the mere production thereof, without any other or further proof of the making of such deed, instrument, or writing.

7. No uncertificated bankrupt or insolvent shall be capable of being appointed a commissioner, and no commissioner who is declared a bankrupt, or who applies to take the benefit of any Act for the relief of insolvent debtors, or who compounds by deed or instrument in writing with his creditors, shall be capable of continuing a commissioner, and the office of such commissioner shall thereupon be vacant.

8. (1) The Governor shall, as soon as conveniently practicable after the passing of this Act, appoint three persons to be “Sydney Harbour Trust Commissioners,” who, subject to the provisions herein-after contained, shall each hold office for a term of seven years.

(2)



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(2) On the occurrence of any vacancy in the office of a commissioner, the Governor shall appoint a person to the vacant office, whose term of office shall be for his predecessor's unexpired term of office. All persons appointed under the authority of this section shall, at the expiration of their respective term of office, be eligible for re-appointment for a like term of seven years.

(3) In the case of the illness, suspension, or absence of any commissioner, the Governor may appoint some person to act as the deputy of such commissioner during such illness, suspension, or absence; and every person so appointed shall, while so acting, have all the powers and perform all the duties of such commissioner.

9. (1) A commissioner may be removed for misbehaviour or incompetence in the following manner:— Tenure of office of commissioners.

(a) A commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided. The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension if Parliament be in session and actually sitting, and when Parliament is not in session or not actually sitting within seven days after the commencement of the next session or sitting.

(b) A commissioner suspended under this section shall be restored to office unless each House of Parliament shall within twenty-one days from the time when such statement shall have been laid before it, declare by resolution that the said commissioner ought to be removed from office, and if each House of Parliament shall within the said time so declare, the said commissioner shall be removed by the Governor accordingly.

10. A commissioner shall be deemed to have vacated his office,— Office how otherwise vacated.

- (a) if he shall engage, during his term of office, in any employment outside the duties of his office;
- (b) if he shall become insolvent, or apply to take the benefit of any Act now or hereafter to be in force for the relief of insolvent debtors, or shall compound with his creditors, or make an assignment of his salary for their benefit;
- (c) if he shall absent himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor (which leave he is hereby authorised to grant), or shall become incapable of performing his duties.
- (d) If he shall become in any way concerned or interested in any contract or agreement made by or on behalf of the commissioners; or shall in anywise participate, or claim to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom.



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11. One of such three commissioners shall be appointed by <sup>President.</sup> the Governor as president, and on the occurrence of any vacancy in the office of president the Governor shall appoint a person to fill that office.

5 12. The commissioners shall receive the following salaries, <sup>Salaries of commissioners.</sup>  
viz. :—

- (1) the president, two thousand pounds per annum ;
- (2) each of the other commissioners, one thousand pounds per annum.

10 All such salaries are hereby charged on the Consolidated Revenue Fund ; and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.

13. For the conduct of business any two commissioners shall be <sup>Quorum.</sup> a quorum, and, subject to the enactment next following, shall have all  
15 the powers and authorities by this Act vested in the commissioners.

14. If, at any meeting at which two commissioners only are <sup>Procedure on difference of opinion.</sup> present, such commissioners shall differ in opinion upon any matter, the determination of such matter shall be postponed until all the commissioners are present.

20 15. No act or proceeding of the commissioners shall be <sup>Acts of commissioners not invalidated by vacancy.</sup> invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any one commissioner.

25 16. The commissioners shall keep minutes of their proceedings <sup>Minutes of proceedings.</sup> in such manner and form as the Governor shall direct.

PART II.

OFFICERS.

*Administrative and other officers.*

30 17. (1) A secretary and staff of clerks and so many engineers, <sup>Administrative and other officers.</sup> surveyors, inspectors, accountants, collectors, clerks, rangers, and such other officers and servants as may be considered necessary for the due administration of this Act shall be appointed by the Governor on the nomination of the commissioners and shall not be removed except on the recommendation of the commissioners.

35 Such persons so to be appointed shall be subject to the sole control and governance of the commissioners.

No person so appointed shall be permitted to engage in any employment other than in connection with the duties of his office without the sanction in writing of the commissioners :

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The provisions of the Public Service Act of 1895, and any Acts amending the same, shall not apply to any person appointed under this section: Provided that nothing herein contained shall affect the rights accrued or accruing under the said Acts to any public servant  
 5 whose services are transferred to the commissioners, and such public servants may continue to contribute to the superannuation account and shall be entitled to receive any payment, pension, or gratuity as if they were officers within the meaning of those Acts: Provided that all appointments at daily or weekly wages shall lie in the sole power of  
 10 the commissioners.

(2) If any such secretary, treasurer, clerk, engineer, surveyor, collector, or other officer exacts, takes, or accepts on account of anything done by virtue of his office, or in relation to the functions of the commissioners any money by way of fee or reward whatsoever  
 15 other than his fixed salary, or allowances, or is in anywise concerned or interested in any bargain or contract made by or on behalf of the commissioners, otherwise than as a member only (but not as a director or officer) of any company, he shall be incapable of being afterwards employed in any such office, and shall forfeit the sum of fifty pounds;  
 20 and any person may sue for such penalty by action of debt in the Supreme or District Court, and shall on recovery thereof be entitled to full costs of suit.

Officer taking fees to lose his office and forfeit £50.

(3) Before any such officer intrusted with the custody and control of moneys enters upon his office, the commissioners shall take  
 25 such sufficient security for the faithful execution of his office, as may be determined by the Minister.

Commissioners to take security from officers intrusted with money.

18. Every officer appointed or employed under the authority of this Act shall, when required by the commissioners, make out and deliver to them, or to any person appointed by them for that  
 30 purpose, a true and faithful account in writing under his hand of all the moneys received by him on behalf of the commissioners; and such account shall state how, and to whom, and for what purpose, such moneys have been disposed of, and, together with such account, such officer shall deliver the vouchers and receipts for such payments;  
 35 and every such officer shall pay to the commissioners, or to any person appointed by them to receive the same, all moneys which appear to be owing from him upon the balance of such account.

Officers to account.

19. (1) If any officer fails to render such account, or to produce and deliver up all the vouchers and receipts relating to the same  
 40 in his possession or power, or to pay the balance thereof when required; or if, for five days after being required, he fails to deliver up to the commissioners, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things in his possession or power relating to the execution of this  
 45 Act, or belonging to the commissioners, then, on complaint thereof being made to a justice, such justice shall summon such officer to appear

Summary recovery against persons failing to account.



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appear before a stipendiary magistrate at a time and place to be set forth in such summons to answer such charge, and upon the appearance of such officer, or, in his absence, upon proof that such summons was personally served upon him, or left at his last-  
 5 known place of abode, such stipendiary magistrate may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appears either upon confession of such officer, or upon evidence, or upon inspection of the account that any moneys of the commissioners are in the hands of  
 10 such officer, or owing by him to the commissioners, such stipendiary magistrate may order such offender to pay the same, and, if he fails to pay the amount, such stipendiary magistrate may grant a warrant to levy the same by distress, or for default of sufficient distress to satisfy the same may grant a warrant to commit the offender to gaol,  
 15 for any period authorised by law.

(2) If any officer on being so brought before such stipendiary magistrate and being required so to do refuses to make out any such account in writing, or to produce and deliver to the stipendiary magistrate the several vouchers and receipts relating thereto, or to  
 20 deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power or belonging to the commissioners, such stipendiary magistrate may commit such offender to gaol until he has made out such account or delivered up such vouchers, receipts, books, papers, writings, property, effects, matters, and things :

(3) Provided that if any commissioner, or other person acting  
 25 on behalf of the commissioners, makes oath that he has good reason to believe upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer to abscond, or that he has absconded, it shall be lawful for the justice before  
 30 whom the complaint is made, instead of issuing his summons, to issue his warrant for bringing such officer before a stipendiary magistrate as aforesaid, but no person executing such warrant shall keep such officer in custody longer than forty-eight hours without bringing him before a stipendiary magistrate as aforesaid ; and it shall be lawful for  
 35 the said magistrate either to discharge such officer, if he thinks there is no sufficient ground for his detention, or to order such officer to be detained in custody until the determination of the complaint, unless such officer gives bail to the satisfaction of such magistrate for his appearance to answer the complaint.

(4) No such proceeding against, or dealing with, any such  
 40 officer as aforesaid shall deprive the commissioners of any remedy which they might otherwise have against any surety of such officer.

*Port officers.*

20. The Governor, on the nomination of the commissioners,  
 45 may appoint such fit and proper persons to be harbour-master and assistant  
 assistant

Penalty on officer refusing to deliver up documents.

Warrant may be issued in the first instance for absconding officer.

Commitment not to discharge sureties.

Power to appoint harbour-master, assistant harbour-masters, &c.



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assistant harbour-masters for the port, and such other officers as may be thought necessary, and at pleasure may remove such harbour-master, assistant harbour-masters, or other officers; and such harbour-master and each of such assistant harbour-masters shall when acting be the  
5 port officer, or harbour-master of the port within the meaning of this Act, exercise of the powers conferred upon such port officer or harbour-master by any Act now in force when not inconsistent with this Act:

The provisions of the Public Service Act of 1895, and any Acts  
10 amending the same, shall not apply to any persons appointed under this section: Provided that nothing herein contained shall affect the rights accrued or accruing under the said Acts to any public servant whose services are transferred to the commissioners, and such public servants may continue to contribute to the superannuation account  
15 and shall be entitled to receive any payment, pension, or gratuity as if they were officers within the meaning of those Acts.

21. It shall be lawful for the harbour-master to give directions Powers of harbour-master.  
for all or any of the following purposes (that is to say):—

20 For regulating the time and manner in which any vessel shall enter into, go out of, or lie in the port, and the position, mooring, or unmooring, placing, or removing of any vessel within the same:

For regulating the manner in which any vessel shall take in or discharge cargo or any part thereof, or shall take in or deliver  
25 ballast.

Provided that it shall not be lawful for such harbour-master to direct that any vessel shall lie or be within any part where any Statute directs that no vessel shall lie or be, or to unmoor or remove from any part of the port duly appointed as a boarding, landing, or quarantine station  
30 any vessel moored or placed there under the authority of the Colonial Treasurer, or to moor or place any vessel alongside any quay, custom-house, station, or other place appropriated to the service of the customs.

22. The master of every vessel within the port shall regulate Penalty on not complying with directions of the harbour-master.  
such vessel according to the directions of the harbour-master made in  
35 conformity with this Act; and any master of any vessel who, after the service on him of a notice in writing signed by the harbour-master, does not forthwith regulate such vessel according to such direction shall be liable to a penalty not exceeding five pounds.

23. If the master of any vessel within the port does not moor, Power of harbour-masters to remove vessels.  
40 unmoor, place, or remove such vessel according to the directions of the harbour-master in writing given to the said master, it shall be lawful for the harbour-master to cause such vessel to be moored, unmoored, placed, or removed according to the directions aforesaid, and to employ a sufficient number of persons for that purpose, and the  
45 expenses attending such mooring, unmooring, placing, or removing shall be paid by the master of such vessel. 24.



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24. If any master of any vessel within the port or any person on board the same hinders the harbour-master or any person employed by him in mooring, unmooring, placing, or removing such vessel in manner aforesaid, such master or other person shall forfeit on conviction 5 for every such offence a sum not exceeding five pounds.

Penalty on master or person on board for obstructing harbour-master.

25. If any master or other person on board any vessel moored or fastened within the port does not upon demand of the harbour-master unloose or slacken the rope or chain by which such vessel is moored or fastened, or if there is no person on board of any such 10 vessel so moored or fastened, it shall be lawful for the harbour-master to unloose or slacken the rope or chain by which such vessel is so moored or fastened as aforesaid, and to cause, if necessary, a sufficient number of persons for the protection of the same to be put on board such vessel, and all expenses thereby incurred shall be paid 15 by the master of such vessel.

Harbour-master may slacken ropes.

*Actions against officers.*

26. All actions to be brought against any person for anything done under this Act shall be commenced within six months after the act complained of was committed, and no writ shall be sued out against, 20 and no copy of any process shall be served upon any person for anything done by him under this Act, until notice in writing of such intended writ or process has been delivered to him, or left at his usual place of abode, by the agent or attorney of the party who intends to cause the same to be sued out or served, at least one month before the suing out 25 or serving of the same. Such notice shall clearly and explicitly set forth the nature of the intended action and the cause thereof, and on such notice shall be endorsed the name and place of abode of the party intending to bring such action, and the name and place of business of his attorney or agent.

Actions against officers.

30 The defendant in every such action may plead the general issue and at the trial thereof give this Act and the special matter in evidence.

Defendant may plead general issue.

No plaintiff shall recover in any such action if tender of sufficient amends has been made before such action was brought, or if 35 a sufficient sum of money has been paid into Court after the commencement of such action by or on behalf of the defendant.

And if the matter or thing complained of appears to have been done under the authority and in execution of this Act, or if any such action is brought after the time limited for bringing the same, or such 40 notice has not been given as aforesaid, the jury shall find or judgment shall be given for the defendant.



*Sydney Harbour Trust.*

## PART III.

## PROPERTY AND POWERS OF COMMISSIONERS.

*Vesting of property and general powers.*

27. There shall be vested in the commissioners upon trust for Lands &c., vested in commissioners.  
 5 the purposes of this Act the bed and shores of the waters of the port,  
 all land now vested in the Government within the boundaries of the port,  
 and the lands resumed, purchased, or reclaimed by the Crown in connec-  
 tion with or used for wharfage purposes as described in Schedule Two,  
 together with all light-houses, light-ships, leading lights and marks,  
 10 beacons, wharfs, cranes, engines, dredges, tugs, shipping appliances,  
 and all other the property of the Crown subject to the interest of any  
 persons in such land existing at the time of the passing of this Act :

Provided that the Governor may at any time vest in the  
 commissioners any further lands deemed to be necessary, and may  
 15 remove from the commissioners such lands as may be found to be  
 unnecessary for the purpose of carrying out the provisions of this Act.

28. Upon the publication in the Gazette of a proclamation with- Lands withdrawn to vest in original owners.  
 drawing any lands from the commissioners under the provisions of the  
 next preceding section, the lands so described shall vest in the  
 20 persons who would be entitled to the same and subject to the like  
 limitations, powers, and authorities as if this Act had not passed.

29. No lease or license in force at the commencement of this Leases and licenses existing at time of passing of this Act.  
 Act of, or relating to, any Crown land hereby vested in the commis-  
 sioners, shall be in any manner affected by this Act. Any moneys  
 25 payable after the said commencement, as the rent reserved in respect  
 of any such leases, may be recovered by the commissioners.

At the expiration of the term of any of the said leases or  
 licenses, it shall be lawful for the commissioners to renew or deal with  
 such leases or licenses on such conditions and terms as they may deem fit.

30 When the renewal of any such lease is refused, the commis-  
 sioners shall pay the leaseholder such compensation for improvements  
 as has been reserved by the lease.

30. The powers contained in sections sixty-three and sixty-four No rescission of any reservation of water frontage without consent of commissioners.  
 of the Crown Lands Act of 1884, and any enactments amending the  
 35 same, so far as they relate to lands within the port, are hereby con-  
 ferred on the commissioners.

Any consideration money for the exercise of such powers shall  
 be paid to the commissioners for the purposes of this Act :

Provided that no grant under either of the sections mentioned  
 40 shall issue without the consent of Parliament.

31. All disputes between the commissioners and the Railway Disputes to be settled by Minister.  
 Commissioners, or any other Department of the Government, with  
 respect to any such property, shall be referred to the Minister, whose  
 decision shall be final and binding on all parties.

32.



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32. It shall be the duty of the commissioners, according as they may think necessary, to dredge the port and keep it in fit and proper condition for navigation, and to prevent any filling or silting up of the channels or other waterways of the port: Provided that  
 5 no dredging or deepening shall be performed within sixty feet of any private wharf, unless the owner thereof pays the expense of such dredging or deepening, except the dredging of deposits from storm-water channels.

Commissioners to do certain work.

The commissioners shall keep or cause to be kept in fit and  
 10 proper condition all public wharfs and quays, and dredge and deepen the port fronting the same, so as to be fit and serviceable for the mooring of vessels, and for the loading and discharging of the cargoes thereof, and also keep in proper order and condition all other property vested in them.

15 33. The exclusive management and control of the port and of the shipping, light-houses, light-ships, leading lights and marks, buoys, beacons, moorings, wharfs, docks, piers, jetties, ferries (except the steam-punt running from the Spit in Middle Harbour), landing-stages, slips, or platforms, and the preservation and improvement of the port  
 20 generally, are hereby vested in the commissioners.

Management of port and shipping vested in the commissioners.

34. All mooring-chains laid down within the port and being the property or under the control of any Government department shall be transferred to and the property in the same is hereby vested in the commissioners, and the commissioners are hereby required to  
 25 maintain the same in good order and repair, and also to remove the same to other more convenient situations, and to lay down additional mooring-chains as and when they may think desirable.

Mooring-chains vested in commissioners.

35. After the commencement of this Act no mooring-chains shall be put down or placed within the port without the permission of the commissioners previously obtained; and every such mooring-chain  
 30 so put down or placed shall be so continued only during the pleasure of the commissioners; and the commissioners may at any time, by giving one week's notice in writing, require such mooring-chains to be removed; and in case default is made in complying with such  
 35 notice, such mooring-chain may be treated by the commissioners as a public nuisance, and removed accordingly.

No mooring-chains to be laid down without permission of the commissioners.

36. The commissioners may agree with any person being the owner of any private mooring-chains for the purchase of such mooring-chains, and may pay to such person such purchase-money or com-  
 40 pensation as may be agreed upon.

Commissioners may purchase private mooring-chains.

*Resumption*



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*Resumption and purchase of lands.*

37. (1) It shall be lawful for the commissioners, subject to the approval of the Governor, and subject to sufficient funds for the purpose being voted by Parliament, but without further or other authority than  
5 this Act, to resume any wharfs, jetties, lands, buildings, enclosures or premises, which may be required for the purpose of harbour improvements and for the development of trade (such lands not being the property of the Crown) in accordance with the provisions hereinafter mentioned. The commissioners shall have power to enter upon and  
10 survey any lands within their jurisdiction. Commissioners may resume lands.
- (2) The commissioners shall cause a notice of the resump-  
tion of any land required by them for the purposes aforesaid, to be published in the manner provided in the Act forty-fourth Victoria  
number sixteen. Service of notice.
- 15 (3) Upon the publication of such notice, the land therein  
described shall for the purposes aforesaid, and subject to the pro-  
visions of this Act, be vested in the commissioners for an absolute  
estate in fee simple in possession, freed and discharged from all trusts,  
obligations, estates, interests, contracts, charges, rates, rights of way,  
20 or easements whatsoever. Lands vested on service of notice.
- (4) The owner of any portion of lands resumed, or the  
person who, but for the provisions of this Act, would have been such  
owner, shall be entitled to receive compensation for the land so  
resumed, and the amount of such compensation shall be ascertained in  
25 accordance with the provisions of the Lands for Public Purposes  
Acquisition Acts, being the Acts of the forty-fourth Victoria number  
sixteen, and forty-fifth Victoria number twenty-six. For the purpose  
of ascertaining and dealing with such compensation, and for other  
purposes subsidiary thereto, the enactments hereinafter specified are  
30 declared to be incorporated with this Act, viz.:—
- (a) As to conversion of the estates of owners of lands into a claim  
to compensation,—Section eleven of the Act forty-fourth  
Victoria number sixteen.
- 35 (b) As to notice of claim for compensation and abstract of title,—  
Section twelve of the Act forty-fourth Victoria number  
sixteen, and First Schedule thereto, as amended by section  
three of the Act forty-fifth Victoria number twenty-six.
- (c) As to procedure after receipt of notice of claim, and the  
institution of proceedings in the Supreme Court,—Sections  
40 thirteen and fourteen of the Act forty-fourth Victoria number  
sixteen.
- (d) As to the nature of the issue in actions for compensation,  
verdict and costs, the payment of compensation, the mode of  
assessing compensation, and the obligation of the party  
claiming



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claiming payment to make out a title,—Section two of the Act forty-fifth Victoria number twenty-six, section sixteen of the Act forty-fourth Victoria number sixteen, and section twenty-four of the Public Works Act of 1888, except that the interest payable under the said section sixteen shall be four per centum instead of six per centum.

- (e) As to procedure on registration or transfer,—Section twenty-four of the Act forty-fourth Victoria number sixteen.

And in order to carry out the intention of this section the words “this Act” whensoever occurring in any of the sections so declared to be incorporated herewith shall be held to include this present Act, and the words “under the sixth section of this Act” in section twenty-four of the Act forty-fourth Victoria number sixteen shall be held, for the like purpose to refer to this present section of this Act, and the words “The Constructing Authority” shall be held to refer to the commissioners.

(5) The several sections of the Public Works Act of 1888, hereinafter specified, together with the respective powers, authorities, duties, liabilities, obligations, and other the provisions therein contained are hereby declared to be incorporated with, and embodied in this Act to the intent that the same may be applied as fully and effectually to, and in respect of, the lands resumed by this Act as if the said sections had been specifically enacted herein: Provided that, wheresoever in any section so incorporated the words “Constructing Authority” occur, there shall, for the purposes of this Act, be substituted in lieu of such words, the expression “commissioners;” the expression “authorised work,” wheresoever occurring in any such section shall be held to refer to the work authorised by this Act; and the words “this Act” shall similarly be held to refer to this present Act. The following are the sections of the said Public Works Act so declared to be incorporated herewith—

(a) As to the deposit of compensation money in certain cases with the Master in Equity, and the application and investment thereof; as to payment of such money in certain cases to trustees, or to the parties themselves, the exoneration of the Minister in respect thereof after payment, the presumption of ownership, and the payment of costs,—Sections sixty-two of seventy-two, both inclusive.

(b) As to the procedure by the Minister in case the owner or occupier of any lands resumed by this Act shall refuse to give up possession thereof, or hinder the Minister from entering upon, or taking possession of the same,—Section seventy-seven.

(c) As to the purchase or redemption of the interests of mortgagees, and the deposit of principal and interest due on mortgages

Incorporation of  
certain provisions of  
Public Works Act  
of 1888.



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mortgages with the Master in Equity, the procedure to be observed when the mortgaged lands are of less value than the mortgage debt, and where part only of lands in mortgage is taken,—Sections eighty-one to eighty-six, both inclusive.

- 5 (d) As to the release of lands from rent charges and other incumbrances, and the procedure thereon,—Sections eighty-seven to ninety, both inclusive.
- (e) As to the apportionment of rent where lands so resumed are taken under lease, and as to compensation to tenants,—
- 10 Sections ninety-one to ninety-four, both inclusive.

38. In addition to the power of resuming land conferred by the last preceding section the commissioners may purchase from any person who may be willing to sell the same in fee simple, or for any less estate or interest, any land which the commissioners may require  
 15 for any of the purposes aforesaid, subject to the approval of the Governor, and provided that the necessary funds are voted for the purpose by Parliament.

Power to purchase land for the purposes of this Act.

*Miscellaneous powers in regard to land.*

39. All lands vested in the commissioners by this Act, or which  
 20 may hereafter be purchased or acquired by them pursuant to this Act, shall be exempt from any land tax and any rate or tax which the council of the city of Sydney or any municipal council might but for this section have imposed or levied thereon; but nothing herein shall preclude the council of the city of Sydney or any municipality  
 25 from levying and collecting rates upon houses and buildings erected on such lands and leased and occupied for private purposes and by persons other than the commissioners or their officers and servants.

Lands vested in commissioners free from municipal rates.

40. The commissioners may, subject to the approval of the Governor, contract for the lease of and may lease for such considera-  
 30 tions as they may deem reasonable, and by any deed under their corporate seal may demise to the lessees thereof, any superfluous lands in such manner as they may deem most advantageous; and such contracts and leases shall be valid and effectual to all intents and purposes.

Power to sell or lease certain lands not wanted.

35 41. The commissioners, with the approval of the Governor, may grant leases of any land vested in them by this Act upon such rent reserved and such conditions, and for such term, not exceeding twenty-one years, as they may think fit, as yards or sites for ship building, boat building, storing of timber, storing of coal, storing of  
 40 merchandise or other property, and erection of workshops or foundries connected with shipping.

Lands vested may be leased for certain purposes.



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42. Whenever the commissioners during the currency of the term of any existing lease or license to occupy any of the land vested in them, or of any lease granted by them under the authority of this Act, desire to take possession of the said land or any part thereof, they Power of commissioners to resume possession of the land the subject of a lease or license.  
 5 may serve on the person to whom the lease or license has been granted, his heirs, executors, administrators, or permitted assigns, and in the manner prescribed herein for the service of a summons, a notice that they require possession; and if within three months from the service of the notice, possession is not given to the commissioners, or their  
 10 agents, the commissioners may issue their warrant to the Sheriff requiring him to deliver possession of the land, whereof possession is so required, to the person appointed in the warrant to receive the same, and, upon receipt of such warrant, the Sheriff shall deliver possession of the land accordingly, and expel and remove therefrom  
 15 all persons then in possession without any legal process whatsoever, and as effectually as if he were acting under a writ of *habere facias possessionem* issued on judgment in ejectment, and the costs accruing by reason of the issuing and execution of the warrant shall be settled by the Sheriff, and shall be paid by the person failing or refusing to  
 20 give possession; and the amount of costs so settled shall be deducted and retained by the commissioners from the compensation, if any, payable for dispossession under the powers hereinafter contained; or if no such compensation is payable, or if the amount of the said costs exceeds such compensation, the said amount or such excess if  
 25 not paid on demand shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly.

43. Whenever any lessee or licensee, his executors, administrators, or permitted assigns, is or are dispossessed under the powers by this Act conferred on the commissioners, the commissioners shall Commissioners to pay compensation for dispossessing.  
 30 pay to him or them compensation therefor, and the amount thereof shall be settled in the manner prescribed in the Public Works Act of 1888, and any Act amending the same.

*Work to be done and duties to be performed by the commissioners.*

44. All works constructed and carried out under the provisions of this Act shall be constructed and carried out by the Minister or Works to be carried out by Minister.  
 35 by the commissioners as may be determined by Parliament and shown by the estimate submitted to Parliament.

45. All works constructed under the provisions of this Act, and all salaries payable under this Act, and all expenses of carrying out the Funds for purposes of Act.  
 40 provisions of this Act, shall be paid for by money voted for that purpose by Parliament. And such works may be carried out subject to sufficient funds being voted by Parliament, but without further or other authority than this Act.



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46. (1) The commissioners may construct and enclose any wharf, dock, pier, jetty, landing-stage, slip, or platform, or remove, alter, or repair the same. Commissioners may construct wharfs, sheds, &c.

(2) They may also authorise the construction of any wharf, dock, pier, jetty, landing-stage, slip, or platform, tramway, railway, or hoisting cranes, shears, or engines, on such waterside frontages or on such land as may be subject to any lease or license granted by them.

(3) They may construct such depôts and sheds for the reception of goods, and may construct and erect such steam-engines, cranes, hoisting and weighing machines, and other apparatus for facilitating the loading and discharging or the masting or unmasting of vessels or the testing of chains and anchors, and provide such other conveniences upon or near the wharfs, docks, piers, jetties, landing-stages, slips, or platforms as they may think expedient for the trade of the port, and may make reasonable charges for the use of any such depôt, sheds, steam-engines, cranes, hoisting and weighing machines, and other such apparatus and conveniences as aforesaid.

47. (1) The commissioners may, for the purpose of maintaining and improving the navigation of the rivers and channels within the port, dredge, cleanse, and scour the said rivers, and alter, deepen, cleanse, scour, dredge, cut, enlarge, and otherwise alter and improve the bed of the said rivers and channels; and may reduce or remove any banks or shoals whatsoever within the said rivers and channels; and may abate and remove all impediments, obstructions, and annoyances, and all nuisances and abuses whatsoever in the said rivers and channels, or on the banks and shores thereof, which may now or at any time hereafter be injurious to the said rivers and channels, or obstruct, or tend to obstruct the free navigation thereof: Provided that nothing herein contained shall extend to any sewer duly authorised and constructed by any department of the Government. Commissioners empowered to dredge, cleanse, and scour rivers, &c.

(2) They may remove, scour, and take away any shoal, mud-bank, or other accumulation which impedes the navigation of the port, and may shorten any bend or remove any angle in the course of the rivers within the port. Power to remove any shoal, mud-bank, or accumulation in the port, and shorten bends of the river.

(3) They may cut the banks of the rivers within the port for the purpose of making, enlarging, or repairing any dock or canal, or any drain, sewer, or water-course, or altering, laying down, or repairing any suction or other pipe, or for any other purpose whatsoever, and may authorise any person to cut the banks for any of the purposes aforesaid, under such restrictions and upon such terms and conditions as they may think proper to impose. Banks may be cut.

(4) They may place and lay down or take up within the port such buoys and beacons as may be necessary and convenient for the navigation of the port. Buoys and beacons.



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48. The commissioners may, subject to the approval of the Minister, enter, by their corporate name, into contracts with any persons for the execution of any work authorised by this Act to be done by them, or which they may think proper to do, or to direct to be done, under or by virtue of the powers conferred by this Act, or for furnishing materials or labour, or for providing proper engines or other power, or for any other matters and things whatsoever necessary for enabling them to carry the purposes of this Act into full and complete effect, in such manner, and upon such terms, and for such sum of money, and under such stipulations, regulations, and restrictions as they may think proper.

Commissioners may  
make contracts, &c.

49. The powers hereby granted to the commissioners to make contracts may lawfully be exercised as follows (that is to say):—

Contracts by the  
commissioners how  
to be entered into.

With respect to any contract which if made between private persons would be by law required to be in writing and under seal, the commissioners may make such contract in writing in the corporate name of the commissioners under their common seal, and in the same manner may vary or discharge the same.

With respect to any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith, the commissioners may make such contract in writing in the corporate name of the commissioners signed by the secretary and by any two of the commissioners, and in the same manner may vary or discharge the same.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the commissioners and all other parties thereto, their successors, heirs, executors, or administrators, as the case may be; and on any default in the execution of any such contract, either by the commissioners or by any other party thereto, such actions or suits may be brought either against or by the commissioners in their corporate name as might be brought had the same contract been made between private persons only: Provided that no contract, the amount whereof exceeds five hundred pounds, shall (except in cases of emergency) be made, except after public tender of which public notice shall be given, but the commissioners shall not be bound to accept the lowest tender.

50. It shall be lawful for the commissioners, with the approval of the Minister, at a meeting specially called for that purpose, of which meeting three days' notice shall be given, to compound and agree with any person who has entered into any contract in pursuance or under the authority of this Act, or against whom any action or suit has been brought for any penalty contained in any such contract or in any bond or other security for the performance thereof, or for or on account of

Commissioners may  
compound for breach  
of contracts.



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any breach or non-performance of any such contract, bond, or security for such sum of money or other recompense as the commissioners may think proper.

51. The commissioners may appropriate particular wharfs, Commissioners may grant exclusive right to portions of wharfs, &c.  
 5 docks, piers, jetties, landing-stages, or platforms, or portions thereof respectively to the use of steam vessels, either exclusively or in conjunction with sailing vessels, or to the use of any vessels engaged in particular trades, or to the use of any other vessels or class of vessels, or under any other circumstances which may render such appropriation  
 10 expedient.

52. The commissioners may, upon such terms and conditions, Powers to set apart portions of works for special purposes.  
 and upon payment of such rents or other sums of money, and subject to such restrictions and regulations as they may think proper, set apart and appropriate any particular portion of any wharf, dock, pier, jetty,  
 15 landing-stage, or platform, shed, warehouse, or other works, with the appendages thereunto, for the exclusive accommodation of any person engaged in carrying on any particular trade who is desirous of having such exclusive accommodation for the reception of the vessels and goods belonging to or employed and conveyed by them. All  
 20 persons to whom such exclusive accommodation as aforesaid is afforded, and their vessels, crews, and servants, and other persons employed by them or under their control, shall be subject to regulations to be made by the commissioners.

53. No person shall add to or alter any wharf, dock, pier, jetty, No erection without consent of commissioners.  
 25 landing-stage, slip, or other work now being upon the bed or shore of the port, or shall erect, build or make any embankment, or any erection, building, or work in or upon the bed or shore of the port, or drive any piles thereon or therein without the license of the commissioners.

54. The commissioners, subject to such restrictions as the Commissioners empowered to grant licenses for the formation of recesses or docks and wharfing.  
 30 Governor may think fit, upon the payment of a fair and reasonable consideration, and subject to such regulations and restrictions as they may think proper, may grant licenses for the formation of such recesses or docks, wharfs or quays, and the driving of such piles and  
 35 other works as may be required for the convenient use, protection, and improvement of premises, and the placing and mooring of vessels in such line, and at such levels as may appear to them requisite for the above purposes, without injurious interference with the navigation of the port or its future improvement.

55. The Commissioners, upon such terms and conditions as Commissioners may grant licenses for the erection of piers and jetties.  
 40 they think fit, may grant licenses for the erection by the owners or occupiers of lands adjoining the port at any convenient places, of piers or landing-places of such form and construction as the commissioners consider most advantageous to the public, and as  
 45 causing the least obstruction to navigation, and for the driving of piles and the formation of wharfing-ways and other conveniences to the adjoining premises.

The



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The Commissioners may order the form and construction of such piers or landing-places, and the position of such piles, and the mode of forming such wharfing-ways and other conveniences to be altered by the owners of or persons licensed to erect, drive, or form the same, and may also order any such piers or landing-places, piles, wharfing-ways, and other conveniences to be removed and taken away by the owners thereof, or the persons licensed to erect, drive, or form the same; and in case any such pier, landing-place, piles, wharfing-way, or other convenience is not altered or removed within seven days after notice from the commissioners to alter or remove the same has been given to the owner thereof, or to the person licensed to erect, drive, or form the same, such pier, landing-place, piles, wharfing-way or other convenience, may be removed by the commissioners at the expense of such owner or person.

56. The commissioners may grant to the owner or occupier of any land fronting and immediately adjoining any portion of the port a license to make any wharf, dock, basin, pier, jetty, landing-stage, slip, or platform, or any embankment wall, or other work immediately in front of his land and into the body of the said port, upon payment of such fair and reasonable consideration and subject to such other conditions and restrictions as the commissioners may think fit.

Owners of land may  
embank with consent  
of commissioners.

57. If any vessel is sunk or stranded within the port, the commissioners may forthwith seize and attach such vessel and any goods therein until security is given to the satisfaction of the commissioners for the due removal of such vessel and goods; and if the owner, master, or agent does not provide such security or does not remove and take away such sunk or stranded vessel, or the wreck thereof, within such time as the commissioners, in writing, require, the commissioners may then raise, destroy, remove, or take away such wreck of any vessel that is sunk or stranded, and is in their judgment an obstruction to the safe and convenient navigation and use of the port; and in case the owner, master, or agent of such vessel, or other obstruction, refuses or neglects to pay the charge of raising, destroying, removing, or taking away such vessel, wreck, or goods for the space of three days after demand, or in case any such owner, master, or agent cannot be found, then the commissioners may sell such vessel, wreck, and goods, and out of the proceeds of such sale retain the expense incurred in raising, destroying, and removing such vessel, wreck, and goods, and the charges of sale, rendering the over-plus to the person entitled to the same; and if from such proceeds sufficient to pay all the aforesaid charges is not recovered, then the amount of any deficiency shall be a lien or charge on any vessel, goods, or money belonging or payable to the owner of any such vessel so sunk or stranded as aforesaid, which may be then, or at any time within the period of twelve calendar months thereafter in the Colony of

Power to remove  
wrecks, &c.



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of New South Wales in the hands of any agent or other person on behalf of any such owner, subject and without prejudice to any prior lien or charge in favour of any other person. The lien or charge hereby given to the commissioners may be enforced by proceedings  
 5 in the Supreme Court to be instituted by the commissioners against such owner, agent, or other person, and service of all process in any such suit shall be held good and binding on any such owner if such service has been duly effected on any such agent or other person :

10 Provided that in no case the amount for which such owner is liable, or for which such lien is claimed, shall exceed the amount of the value of the vessel and the freight then due ; and such value shall be estimated at the rate of eight pounds per ton of such vessel's tonnage :

15 Provided further that when the sinking or stranding of such vessel is the result of accident or of causes beyond the control of such owner (of which the finding of the Court of Marine Inquiry shall be conclusive evidence), such owner shall not be liable for any portion of the cost incurred in raising, destroying, or removing such wreck which may exceed the sum realised by the sale of the wreck of such vessel.

58. It shall be lawful for the commissioners, and they are  
 20 hereby directed when any obstruction impedes the navigation and use of the port or any part thereof (of which obstruction the commissioners shall be the sole judges), to require the owner or occupier of such obstruction, by notice given or sent to him, to remove such obstruction as aforesaid within a time to be stated in  
 25 such notice ; and should such owner or occupier fail, neglect, or refuse to remove the obstruction stated in such notice, the commissioners shall remove the same, and the expenses of so doing shall be repaid by the owner of the same, and the commissioners may detain the materials of such obstruction for securing payment of such  
 30 expenses, and on non-payment of such expenses on demand may sell such materials, and out of the proceeds of such sale pay such expenses, rendering the overplus, if any, to the owner on demand. If the proceeds of the sale are not sufficient to pay the said expenses, or if the commissioners, without proceeding to such sale, so determine, the  
 35 commissioners may sue the said owner or occupier for the recovery of such expenses.

59. (1) The commissioners shall make and maintain proper  
 roads and approaches to all wharfs, docks, piers, jetties, landing-  
 stages, slips, platforms, depôts, and sheds that are now or may  
 40 hereafter be erected on the lands vested in them ; and they shall cause such wharfs, docks, piers, jetties, landing-stages, slips, platforms, depôts, and sheds, and the roads and approaches thereto, to be kept in good repair, and well and sufficiently lighted, watched, and cleansed.

(2) The commissioners may appoint a sufficient number  
 45 of persons to preserve order on or at such wharfs, piers, jetties, landing-stages  
 Persons may be appointed to preserve order, &c., at piers.



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landing-stages and platforms, and the avenues and approaches thereto, and to prevent the intrusion thereon of improper persons who have no intention of embarking on board any vessel from such wharfs, docks, piers, jetties, landing-stages, or platforms, and to remove any  
 5 persons who may unnecessarily linger or loiter on or about such wharfs, docks, piers, jetties, landing-stages, or platforms, and to assist any vessel in making fast to such piers or landing-places.

60. The commissioners may remove any broken, dangerous, or  
 10 useless piles or mooring chains and other nuisances, and may order the removal or shortening of any waterways, causeways, stairs, or other projections injurious to the navigation of the port.

61. The commissioners may, if they think fit, grant licenses  
 15 for the supply and removal of ballast, and for the supply of water to shipping, by means of water tanks, subject to such regulations as the commissioners may make. And no person shall dredge for ballast in the bed of the port, or take or supply any ballast within the port, or supply water to shipping as aforesaid, without a license from the commissioners; and any person offending against this section shall be liable to a penalty not exceeding twenty pounds.

20 62. The commissioners may by notice in writing prohibit any person from raising or taking any ballast or any materials for ballast in any place or places in or from which the raising or taking of ballast or materials for ballast may, in the judgment of the commissioners, be injurious to the navigation of the port, or to the due execution of  
 25 the works to be directed by them; and any person who, after the delivery to him of any such notice as last aforesaid, raises or takes any ballast or materials for ballast in contravention of any such notice shall be liable to a penalty not exceeding twenty pounds.

63. Subject to the provisions of this Act the commissioners  
 30 may demand and take as consideration for any license granted by them such fees, either in gross, or by annual or other periodical payments, as the commissioners may, by their regulations determine.

64. The commissioners may purchase, provide, and maintain  
 35 all such apparatus, matters, and things as may appear to them to be necessary to assist in searching for drowned persons and restoring animation to persons apparently drowned, and to employ and reward assistants therein in such manner as to the commissioners may seem expedient.

65. The commissioners may purchase and maintain any such  
 40 appliances, matters, and things as may appear to them to be necessary for the purpose of extinguishing any fire on vessels, or on any property vested in them.

66. The commissioners shall, on the thirtieth day of June and  
 45 thirty-first day of December in every year, render and deliver to the Minister a true and correct schedule containing full particulars of all sales,

Broken piles, &c., to be removed.

Licenses for supply and removal of ballast, &c.

The commissioners may prevent ballast from being taken in places where its removal might be injurious to the navigation.

Power to demand fees for licenses.

Humane apparatus and assistance may be provided.

Fire-extinguishing apparatus may be provided.

Annual statement of accounts of all moneys received for sales, &c., of bed of port to be sent to the Minister.



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sales, leases, grants and licenses for docks, recesses, beds for boats or barges, wharfs, piers, landing-places, piles, mooring-chains, or works of any description of, in, or upon any portions of the said lands or bed or shores of the port, or any encroachments, embankments, and inclosures  
 5 thereupon, and also a true and correct account of all sums of money which they or any person or persons by their order or to their use have received during the year ending on the thirty-first day of December immediately preceding for or in respect of any such sales, leases, grants, and licenses, and for or in respect of any permission, and  
 10 of all rents, revenues, and proceeds of what nature or kind soever; the said accounts to specify the particular source from which all and every such sums of money, rents, and profits have been derived, and to be from time to time verified as being true and correct accounts by a statutory declaration in writing under the hand of the treasurer  
 15 of the commissioners.

67. The commissioners may construct and erect public baths, and charge such fees for admission thereto or lease the same as they may determine. Power to erect public baths.

## PART IV.

## RATES, &amp;c.

20 68. (1) The commissioners shall demand, collect, and receive in respect of all vessels berthed at any wharf, dock, pier, jetty, landing stage, slip or platform vested in the commissioners, or in respect of all goods, merchandise, and things whatsoever (except goods belonging to  
 25 Her Majesty's Government and passengers' luggage) shipped or unshipped from any vessel (whether such goods, merchandise, or things are landed or not), wharfage and tonnage rates, according to the provisions contained in the Wharfage and Tonnage Rates Act of 1880 and Acts amending the same, which Acts are, *mutatis mutandis*,  
 30 hereby incorporated with this Act, so far as the said Acts relate to the port of Sydney, subject to the provisions hereinafter mentioned; and all the powers therein contained are hereby conferred upon the commissioners. And until the commissioners are appointed, the rates to be demanded, collected, and received, shall be those in force at the  
 35 passing of this Act: Provided that the Governor may make regulations for the remission, exemption, or reduction of wharfage rates, in such cases and subject to such conditions as he shall deem advisable.

(2) The words "Governor with the advice of the Executive Council" shall, wherever they occur in the said Acts, be read as if the  
 40 same were "commissioners, with the approval of the Governor." And the words "Colonial Treasurer" shall be read as if the same were the word "Minister."



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69. The commissioners may, by regulation approved by the Governor, alter, raise, and lower at discretion any wharfage or tonnage rates, which the commissioners are authorised to demand, collect, and receive under this Act: But such rates shall not exceed the amounts  
 5 provided for in the said Acts and in the Second Schedule of the Wharfage and Tonnage Rates Act of 1880:

Commissioners may alter rates, &c.

10 Provided that, in lieu of the wharfage rates in the said Schedule mentioned, the commissioners may charge wharfage rates by measurement or weight, not exceeding four shillings per ton dead weight or three shillings per ton measurement.

70. It shall be lawful for the commissioners to demand, collect, and receive in respect and for the use of any of the property of the commissioners such tolls, rates, and charges as the commissioners may determine and appoint by regulations under this Act.

Commissioners to levy charges for use of property.

15 71. The collection of tolls, rates, and charges authorised by this Act shall be prescribed by regulations under this Act; and for the convenience of such collection the Colonial Treasurer may, if he thinks fit, provide, at the cost and charges of the Commissioners, in the public office or long room of the custom house, accommodation  
 20 for any officer or officers whom the commissioners may direct to receive and collect such tolls, rates, and charges.

Mode of collection.

72. The commissioners may, when default is made in the payment of any tolls, rates, or charges in respect of any goods (first paying the customs duties and dues, if any), retain and sell the said  
 25 goods, or any part thereof; and after reimbursing themselves the amount of such duties and dues, the commissioners shall retain and pay in the first place the tolls, rates, and charges so unpaid as aforesaid, including the expenses of such sale, and in the next place the freight due on such goods (in case the commissioners have received  
 30 written notice that such freight has not been paid), rendering the surplus (if any), and also such of the said goods as remain unsold (the rates due in respect whereof having been discharged as aforesaid) to the person entitled thereto on demand. In lieu of selling such goods, or notwithstanding such sale, if the proceeds of such sale are  
 35 insufficient, the commissioners may, by action of debt in the Supreme or a District Court, recover the amount of such tolls, rates, charges, and expenses, as are due to them.

Commissioners may sell goods, &c., for payment of rates.



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## PART V.

## FINANCE.

73. The Minister shall, as soon as possible after this Act comes into operation, cause a list to be made of all works, property, and improvements which are by this Act vested in the commissioners as aforesaid. And the Minister shall determine the value at the date of such vesting of such works, property, and improvements to be charged against the commissioners.

Minister to declare value of property vested in commissioners.

74. After such determination of such value, the Minister shall, in the month of January in each year, cause a list to be made of the cost of all works, property, and improvements constructed, and the proportionate cost of works in course of construction, or acquired by the commissioners during the preceding year.

Interest on subsequent works.

75. All tolls, rates, rents, charges and other sums of money levied or collected by the commissioners shall be collected and received by them or their authorised agents, for the use of Her Majesty, and shall be paid into the Treasury under the provisions of the Audit Act, 1898, and shall in each year be chargeable with such sum, being not less than three and a half and not more than four per centum per annum, as the Minister may from time to time fix, on the value of such works, property, and improvements, so determined as aforesaid, and the cost of all works, property, and improvements constructed or acquired by the commissioners, together with the fees, salaries, and expenses of administering this Act; and a further sum equal to three and a half per centum per annum on such value and cost to form a sinking fund to pay off any loans contracted in respect of all such and subsequent works, property, and improvements, according as the Governor may think fit; and the balance shall be carried to the Consolidated Revenue Fund.

Interest to be paid thereon.

76. The commissioners shall cause books to be provided and kept, and a true and regular account to be entered therein, of all sums of money received by them under this Act, and of the cost of all works, property, and improvements vested in them, and of all payments made by them under the provisions of this Act, and of the salaries and maintenance of the officers and servants. All such books shall be open to the inspection of the commissioners and the Auditor-General, and any person authorised to inspect the same by the Minister or the Auditor-General, and all such persons may take copies or extracts therefrom. And any clerk or other person having the custody of the said books, who does not on demand permit any person aforesaid to examine the said books and take such copies or extracts therefrom, shall forfeit and pay for every such offence a sum not exceeding five pounds.

Sinking fund to be formed.



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77. The accounts of all moneys received and disbursed by the commissioners shall be audited at least once in every year by the Auditor-General, who shall have, in respect to such accounts, all the powers conferred on him by the Audit Act, 1898, in respect of public accountants; and the commissioners shall once at least in every year furnish to the Governor a true copy of the accounts so audited as aforesaid, together with a particular statement of all moneys received by the commissioners, and of all expenditure incurred by them; and copies of such accounts and of such statement shall be laid before both Houses of Parliament, if then sitting, or if not then sitting, at the next ensuing Session thereof.

Accounts to be audited and furnished.

## PART VI.

## REGULATIONS.

78. All rules and regulations legally made under the Wharfrage and Tonnage Rates Act of 1880 and any Act amending the same shall, in so far as they contain nothing inconsistent with this Act, remain in force within the port until repealed by regulations under this Act, or until others have been enacted in lieu thereof by the commissioners, but so much as may be inconsistent with this Act is hereby repealed.

Existing regulations to have force until repealed.

79. The Governor may make regulations for and relating to the following subjects:—

Regulations by Governor.

- (a) The cases in which wharfrage rates may be remitted, exempted, or reduced.
- (b) The formation of a sinking fund and its application in pursuance of this Act.

80. The commissioners may make regulations for and relating to the following subjects:—

Regulations by commissioners.

- (a) The appointment of the place and hour of their meetings, and the management and conduct of business thereat.
- (b) The control, supervision, and guidance of all officers subject to their control and the control and management of all property vested in or belonging to the commissioners.
- (c) The mode of leasing and licensing under this Act.
- (d) The construction of wharfs, docks, piers, jetties, or embankments, and of sheds thereon; of canals, landing-stages, slips, platforms, tramways, or hoisting cranes, shears, or engines.
- (e) The dredging, cleansing, and scouring the rivers within the port, and the improving the bed or channel thereof; and abating and removing wrecks, impediments, obstructions, and nuisances in the port, or to the navigation thereof; and the shortening any bend, or removal of any angle in the course of the rivers.

(f)



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- (*f*) The management and mode of making contracts by the commissioners and the performance of the same.
- (*g*) The supply of, and all matters relating to, ballast water for shipping, and the use of steam hoists on wharfs or jetties within the port.
- (*h*) The improvement and management of the port.
- (*i*) The imposing, levying, and receiving of all tolls, rates, or charges.
- (*j*) The regulation and government of ferry steamers and boats within the port.
- (*k*) The anchoring, mooring, riding, and fastening of vessels, and the stiffening, removal, and control of vessels, whether under way, at anchor, at a wharf, pier, jetty, or landing-place, afloat or aground, hove down, or hauled up, or in dock within the port.
- (*l*) The regulation and control of the use of sanitary conveniences, lights, and fire on board any vessel within the port.
- (*m*) The manner of boiling or melting pitch, tar, resin, turpentine, or any inflammable substance within the port.
- (*n*) The mode of inquiry into any charges brought by or against any person subject to the Harbour Trust Commissioners.
- (*o*) The communication between wharfs, docks, piers, jetties, landing-stages or platforms and vessels within the port by means of gangways or otherwise.
- (*p*) The imposing of penalties for any breach of any regulations by this Act authorised to be made, not exceeding for any offence the sum of one hundred pounds, nor less than one pound.
- (*q*) The erection of baths and bath-houses within the port, and leasing the same; making excavations for salt-water baths; and any fence or enclosure necessary for the protection or privacy of the same.
- (*r*) The repeal of any regulations made by the Governor under the Wharfage and Tonnage Rates Act of 1880 and any Act amending the same, and the making of any such regulations as the Governor might make under those Acts.
- (*s*) Any other purpose relating to the convenience of shipping or of the public within the port, or for any local enterprise or object which the Governor may approve.
- 40 And generally for duly administering and carrying out the powers vested in the commissioners by this Act.

Any breach of such regulations for which no specific penalty is therein provided shall be punishable by a fine not exceeding one hundred pounds.

Breaches of regulations punishable by fine.



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81. Every regulation shall, upon approval of the Governor, and notification in the Gazette, have the force of law ; and shall be laid before Parliament within fourteen days after such notification, if Parliament be then in Session, and if not then within fourteen days after the commencement of the next ensuing Session.

Regulations to be approved by Governor and published in Gazette.

## PART VII.

## MISCELLANEOUS.

82. Nothing contained in this Act shall be construed to repeal any provision of any Act relating to any Government or other railways, to affect the rights, powers, privileges, and obligations conferred or imposed by any such Act ; or to repeal or affect any provisions of the Navigation Act of 1871, or of any Act amending the same, save and except where the express provisions of this Act are inconsistent therewith, or where such provisions are hereby repealed.
83. No legal proceedings of any nature shall be instituted or brought against the commissioners for or in respect of not dredging, cleaning, or scouring the port, unless the Attorney-General signifies in writing his consent to the bringing or instituting of such proceedings, and on such conditions as to security for costs as he may think fit.
84. (1) The owner of every vessel shall be, and he is hereby made, liable for all trespasses, damages, spoil, or mischief done by such vessel or by any of the boatmen or other persons belonging to or employed in or about the same by any means whatsoever to any of the property or effects of the commissioners or the banks or other works erected, maintained, or repaired under the provisions of this Act ; and the owner of every such vessel shall for every such trespass, damage, spoil, or mischief so committed as aforesaid, upon conviction of the person so committing the same before any justice, on the oath of any credible witness, or on the confession of the party offending, pay to the secretary of the commissioners such damages and compensation as may be ascertained, fixed, and determined by such justice, together with all costs, charges, and expenses attending such conviction, provided that such damages and compensation shall not exceed the sum of twenty pounds besides the costs of such conviction ; and in case such damages or compensation and costs are not paid on demand the same shall be recoverable in the same manner as any penalty is by this Act directed to be recovered, but in case such damages exceed the sum of twenty pounds the said owner may be sued by the commissioners for such damages or compensation.

Act not to repeal Railway or Navigation Acts.

Consent of Attorney-General necessary before proceedings instituted against commissioners.

Owners accountable for damage done by boatmen to works or property of the commissioners.



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(2) Every such boatman or other person so offending shall be liable for, and shall repay all damages and compensation so ascertained, fixed, determined, and recovered as aforesaid, with all the costs of levying and recovering the same to his master or such owner; and in case of non-payment thereof on demand and on oath made by such master or owner of the payment made by him of such damages, compensation, and costs, and that the same have been demanded of such boatman or other person, but that the same have not been repaid (such oath to be made before any justice), the amount thereof shall be recovered in like manner as any penalty is hereby directed to be levied and recovered by warrant under the hand and seal of such justice.

Boatmen to be answerable to their masters for all such damages and costs.

85. In case any person complains of the operation of any regulation of the commissioners, or of any determination or proceeding of the commissioners, or of the conduct of any of their officers, he shall, on an application in writing to the commissioners stating the substance of his complaint, be entitled to have his complaint inquired into.

Inquiry into complaints.

86. Every person who unloads, puts, or throws into any part of the port or on any shore or ground in the port below high-water mark at ordinary tides, any rubbish, earth, ashes, dirt, mud, soil, or other matter, or allows any offensive matter to flow into the port, shall forfeit for every such offence any sum not exceeding one hundred pounds.

Penalty on throwing ballast out of vessels into the port.

87. If any person pulls down or injures any board put up or required by this Act for the purpose of publishing any regulation, notice, or penalty, or obliterates any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalty for defacing boards used for such publications.

88. If, through any act, neglect, or default on account whereof any person has incurred any penalty imposed by this Act, any damage to the property of the commissioners has been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty, and the amount of such damage in case of dispute shall be determined by the stipendiary magistrate by whom the party incurring such penalty has been convicted; and on non-payment of such damage on demand the same may be levied by distress, and any justice may issue his warrant accordingly.

Damages to be made good in addition to penalty.

89. The commissioners shall publish short particulars of the several offences for which any penalty is imposed by this Act or by any regulation of the commissioners affecting other persons than the officers or servants of the commissioners, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, and shall cause such board to be hung up or affixed in some conspicuous place in the office of the commissioners.

Publication of penalties.



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90. (1) All penalties and other sums of money by this Act, Mode of enforcing penalties. or any regulations made thereunder, made payable or recoverable may be recovered with costs, and all offences by this Act made punishable may, unless declared to be misdemeanours, be prosecuted and punished, and the costs of such prosecution recovered, at the suit of any person, by summary proceeding before a stipendiary magistrate.

(2) Whenever any penalty has been imposed by any stipendiary magistrate, under the provisions of this Act, and the person convicted does not forthwith pay the same into the hands of the convicting magistrate such magistrate may direct that such penalty be recovered by distress and sale of the goods and chattels of such person, and in default of a sufficient distress, or in the discretion of such magistrate, without making any order or issuing any warrant for such distress, he may direct that such person be imprisoned in any gaol in New South Wales, with or without hard labour, for any period authorised by law. By distress and imprisonment.

91. In all cases where any damages, costs, or expenses are by this Act directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by a stipendiary magistrate, and if the amount so ascertained is not paid by the commissioners or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the commissioners or other party liable as aforesaid; and the magistrate by whom the same have been ordered to be paid, on application, shall issue his warrant accordingly. Provision for damages not otherwise provided for.

92. Where in this Act any question of compensation, expenses, charges, or damages is referred to the determination of any stipendiary magistrate, it shall be lawful for any justice, upon the application of either party to summon the other party to appear before a stipendiary magistrate at a time or place to be named in such summons, and upon the appearance of such parties, or in the absence of them upon proof of due service of the summons, it shall be lawful for such magistrate to hear and determine such question, and for that purpose to examine such parties or any of them and their witnesses on oath, and the cost of every such inquiry shall be in the discretion of such magistrate, and he shall determine the amount thereof. Method of proceeding before justices in questions of damages.

93. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be. Jurisdiction to be where the offence is committed, and wherever offender is.

94. If in any legal proceeding under this Act any question arises whether any vessel is or is not within the provisions of this Act, or of some particular part thereof, such vessel shall be taken to be within such provisions unless proof to the contrary is adduced. Burden of proof that a vessel is exempted.



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95. It shall be lawful for the commissioners to sue and take any proceedings against any person who steals, takes, or carries away, wilfully defaces, or injures any property, article, or thing belonging to the commissioners, and in every such case it shall be sufficient to state generally the property, article, or thing in respect of which such proceedings have been taken to be the property of the commissioners by their corporate name.

How proceedings to be taken.

96. Any summons, notice, writ, or other proceeding at law or in equity required to be served upon the commissioners, may lawfully be served by delivering the same personally to the secretary, or by leaving the same at the office of the commissioners.

Service of notice on commissioners.

97. Service of any summons or other process in any legal proceeding under this Act shall be deemed good service if made personally on the person to be served, or if made to any person at his last known place of abode or business, or on board any ship to which he belongs, and accompanied in the latter case with a statement of the purport thereof to the person in command or appearing to be in command or charge of such ship.

Service to be good if made personally, or at abode, or on board of ship, &c.

98. Every summons, demand, or notice or other like document given under the provisions of this Act shall be sufficiently authenticated if signed by the secretary or by any one commissioner, and need not be sealed with the common seal of the commissioners.

Authentication of notices, &c.

99. It shall be lawful for any officer or agent of the commissioners, and all persons called by him to his assistance, to seize and detain any person who has committed any offence against the provisions of this Act or any regulation made in pursuance thereof, and whose name and residence is unknown to such officer or agent, and convey him with all convenient despatch before a stipendiary magistrate, without any warrant or other authority than this Act, and such magistrate shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Transient offender.

100. The commissioners of the one part, and the council of the city of Sydney, or the council of any municipality whose district adjoins the port, of the other part, may, for the purpose of providing convenient ways to and from any of the lands, wharfs, docks, piers, jetties, landing-stages, slips, platforms, depôts or sheds of the commissioners, enter into and perform such contracts as they may deem fit with respect to constructing, repairing, or maintaining any street, road, bridge, or approach, or any part thereof, within the limits of the said city, borough, or municipal district as the case may be, either by apportioning the work to be done, or by sharing the expenses thereof, or otherwise in the absolute discretion of the contracting parties.

Power to contract with municipalities as to streets and roads.

101. The Governor may, upon the request of the commissioners and of the council of any such municipality as aforesaid, declare by

The Governor with consent of commissioners may proclaim highways.



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by notice in the Gazette any land vested in the commissioners to be a public highway under the management and control of that council, and such highway shall be treated in all respects as if it were within that municipality and dedicated to the public.

5 **102.** Whenever any day appointed for any purpose by this Act or the regulations of the commissioners happens to be a Sunday or a bank holiday throughout New South Wales, then the next following day which is not a Sunday or a bank holiday throughout New South Wales shall be treated as the day appointed for the purpose. Provision for case of any day appointed falling on a Sunday or holiday.

10 **103.** The production of a copy of the Gazette containing what purports to be regulations of the commissioners approved of by the Governor shall be received in all legal proceedings as evidence of the regulations of the commissioners, and the term "regulations" is to be understood to include the alteration or repeal of any regulations. Gazette to be evidence of regulations.

15 **104.** All penalties recovered for offences against this Act or against any regulation made under this Act shall be paid to the commissioners, and the proceeds of such penalties are hereby appropriated for the purposes of this Act. Application of penalties.

## SCHEDULES.

## SCHEDULE ONE.

*Repeal of Acts.*

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Year and number of Act.	Title of Act.	Extent of repeal.
35 Vic. No. 7 ...	Navigation Act of 1871 ...	So much of sections 19 and 55 and the unrepealed enactments of sections 107 to 122 inclusive, amended by 36 Vic. No. 30, and 60 Vic. No. 36, and Act No. 32 of 1899, as relates to the Port of Sydney, and is inconsistent with this Act.
36 Vic. No. 30...	Navigation Act Amendment Act of 1873.	So much of sections 14 and 16 as relates to the Port of Sydney.
43 Vic. No. 13...	Navigation Act Further Amendment Act of 1879.	ss. 2 and 3.
44 Vic. No. 8 ...	Wharfage and Tonnage Rates Act of 1880.	s. 18.
46 Vic. No. 8 ...	Wharfage and Tonnage Rates Act Amendment Act of 1882.	The whole Act so far as it relates to the port of Sydney.

## SCHEDULE



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## SCHEDULE TWO.

All that area within the following boundaries, exclusive of Garden Island, Spectacle Island, Shark Island, Clarke Island, and Cockatoo Island: Commencing at high-water mark on the southernmost point of the North Head of Port Jackson; 5 and bounded thence by a line south-westerly to high-water mark on the northernmost point of the inner South Head; thence by a line southerly closely following high-water mark till it meets the prolongation south-westerly of the north-western boundary of two roods twenty-eight perches, purchased by the Crown for use as a pilot station at Watson's Bay; thence north-easterly, south-easterly, and south- 10 westerly by the said prolongation, the north-western, north-eastern, and south-eastern boundaries of the said purchased land and the prolongation south-westerly of the last-mentioned boundary to high-water mark; thence again by a line closely following high-water mark around all bays, coves, rivers, creeks, inlets, indentations, points, promontories, headlands, &c., on the southern shores of Port Jackson to the eastern 15 side of Woolloomooloo Bay, at its intersection with the northern boundary of the area resumed for wharfage purposes by Gazette notice of the fourth day of February, one thousand eight hundred and ninety; thence by the north-easterly, easterly, and southern boundaries of that area to the intersection of the last-mentioned boundary with the existing wrought-iron palisade; thence by that palisading and its prolongation 20 south-westerly to the easternmost corner of the existing wrought-iron palisading at Cowper's Wharf; thence by that palisading and the southern sides of the erections along that wharf to the south-western corner of shed known as number nine, now leased to M'Arthur and Company; thence by a line westerly to the eastern boundary of the Domain; thence by that boundary, as fenced, northerly to the westerly extension 25 of the southern boundary of the ladies' baths; thence easterly by that extension to high-water mark on the western side of Woolloomooloo Bay; thence again by high-water mark around all bays, coves, rivers, creeks, inlets, indentations, points, promontories, headlands, &c., to the eastern side of Bennelong Point, at a point due east of the north-eastern extremity of Fort Macquarie; thence by a line north- 30 westerly to the south-eastern corner of the picket fence on the northern side of the approach to the horse-ferry dock; thence by that fence and an iron palisade westerly to an eastern boundary of the Peninsular and Oriental Steamship Company's wharf; thence southerly by the eastern sides of the structures and the connecting iron palisading along the wharfs on the eastern side of Sydney Cove southerly to the 35 south-east corner of the shed used by Burns, Philp and Company (Imperial Japanese Mail Service); thence by a line due south to the southern side of the street known as Circular Quay; thence by that side to the western side of Pitt-street; thence by the extension of that side of Pitt-street northerly to the northern boundary of twenty-seven perches appropriated in the year one thousand eight hundred and fifty- 40 six as a site for Mariners' Church; thence by that boundary westerly to the eastern side of George-street; thence north-westerly to the western side of the road leading to the horse-ferry dock at Dawes' Point; thence by that side of that road generally north-easterly to high-water mark on the north-eastern side of Dawes' Point; thence again by high-water mark as before to its intersection with the western side of George-street 45 North; thence bounded on the east, south-east, south, north-west, and north by the line forming the inner boundary of the land resumed in connection with the Darling Harbour Improvement scheme and notified in the Government Gazette of third of May, one thousand nine hundred, numbered four hundred and fifteen, folio three thousand four hundred and thirty-nine, to the north-east corner of Smith's wharf on the southern 50 side of Bettington-street; thence southerly along part of the eastern side of that property to the north-west corner of Munn-street; thence by part of the northern side of that street easterly to a point in the prolongation northerly of the western side of Dalgety and Company's new brick stores; thence southerly crossing Munn-street to the north-west



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north-west corner of that store and along the western boundary to the south-west  
 corner thereof; thence easterly along the southern boundary of the said store to the  
 most southerly corner of the eastern side of that store; thence south-easterly by a  
 5 direct line to the south-west corner of Wentworth-street, which is an angle on the  
 eastern boundary of the land recently owned by T. A. Dibbs; thence by  
 the boundary of that land south-easterly, south-westerly, and again south-easterly  
 to the north-western side of Clyde-street; thence by a line easterly crossing  
 Clyde-street to the most northerly corner of the land on the south-eastern  
 side of Clyde-street recently owned by T. A. Dibbs; thence by boundaries of  
 10 that land south-easterly, south-westerly, and again south-easterly to the north-western  
 side of land recently owned by Archibald McLean; thence north-easterly by the north-  
 western boundary of that land to the western side of the passage bounding that  
 land on the east; thence southerly along the eastern boundary of that land to the  
 south-eastern corner thereof; thence southerly crossing the land recently held by  
 15 the Municipal Council of Sydney by a direct line to the north-western corner  
 of the land on which house number two Agar-street is erected; thence again  
 southerly by the western boundary of that land, the western boundary of Agar-  
 street, and the western boundary of the land on which house number one of Agar-  
 street is erected to the northern boundary of land recently owned by T. Paton;  
 20 thence by part of the northern boundary of that land westerly about sixty-two feet to a  
 point thereon in the prolongation northerly of a line of paling fence; thence by that  
 prolongation and that paling fence, and the prolongation southerly of the line of that fence  
 to the northern boundary of land recently purchased by the Australian Gas Light  
 Company (Limited) from Philip Rech; thence by that boundary westerly to the waters  
 25 of Darling Harbour, being the south-west corner of the land described in Schedule  
 number one of the proclamation of third day of May, one thousand nine hundred, referred  
 to above; thence southerly by the high-water mark of the eastern side of Darling  
 Harbour to the south-west corner of the Australian Gas Light Company's land;  
 thence by three boundaries of that land bearing easterly, southerly, and again  
 30 easterly to the south-eastern corner of Jenkins-street; thence by the prolongation  
 of the eastern side of that street southerly about fifty feet to a point thereon in  
 the prolongation westerly of the line of the most southern portion of a brick dwelling  
 house; thence by the last-mentioned prolongation and the southern side of the said  
 house and of the land enclosed with same easterly to the cliff; thence by the cliff  
 35 and the western side of a brick stable southerly to the northern side of the  
 entrance to the Grafton wharf; thence by that side of that entrance easterly  
 to the western side of Kent-street; thence by that side of that street southerly to the  
 south-eastern corner of the said entrance; thence by the southern side of that entrance,  
 westerly to the north-western corner of the Model Lodging-house property; thence  
 40 southerly by part of the western boundary of that property to the south-east corner of  
 a brick store; thence by the southern side of that store westerly to the north-east corner  
 of the North Coast Steam Navigation Company's workshop; thence southerly by the  
 eastern side of that workshop to the northern side of Napoleon-street; thence by part  
 of the northern side of Napoleon-street easterly, and thence by the eastern side of that  
 45 street southerly to the north side of Margaret-street, being a point on the boundary of  
 the land resumed on third day of May as aforesaid; thence westerly and southerly by that  
 boundary to the dividing line between stores numbered thirty-nine and forty-one on the  
 western side of Sussex-street; thence by the dividing line between these two stores and  
 the prolongation thereof westerly to a point on the eastern boundary of the land recently  
 50 held by the Australian Mutual Provident Society as mortgagees in possession; thence  
 by the eastern boundary of that land southerly about twenty-three feet to the north-  
 east corner of the portion of that land occupied by Thomas Turner, wine and spirit  
 merchant; thence by the northern boundary of Thomas Turner's occupation aforesaid  
 westerly to the eastern boundary of land occupied by Halliday Brothers, mechanical  
 55 engineers; thence by the eastern boundary of that land southerly to the northern  
 side of Erskine-street; thence by that side of that street westerly to a point  
 thereon in the prolongation northerly of the eastern side of Lime-street; thence



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by that prolongation and that side of that street southerly to the northern side of Slip-street; thence by the northern side of Slip-street easterly to the western side of Day-street; thence across Slip-street at right angles to the northern boundary of the land recently held by the Australasian United Steam Navigation Company (Limited); thence by three boundaries of that land easterly, south-westerly, and south-easterly to the western side of Sussex-street; thence by the street frontage of that land southerly to the south-east corner of that land; thence along the northern side of store numbered one hundred and seven, Sussex-street, westerly about twenty-seven feet to the north-west corner of that store; thence by the western side of the above numbered one hundred and seven, one hundred and nine, one hundred and eleven, and one hundred and thirteen southerly to the northern side of land recently owned by James Edrop; thence westerly along part of the northern side of that land about one hundred and twenty feet to a passage leading into King-street; thence southerly by the eastern side of that passage to the north side of King-street; thence across King-street south-easterly to the north-western corner of a passage bounding shop number fifteen, King-street, on the east; thence by the western side of that passage southerly to the south-western corner thereof; thence easterly along the northern side of land recently owned by John Struth, by the northern side of that land and the line dividing stores numbered one hundred and twenty-seven and one hundred and twenty-nine, Sussex-street, to the western side of Sussex-street; thence by that side of that street southerly to the north-eastern corner of Bray's store, numbered one hundred and thirty-nine; thence by the northern boundary of that store westerly to its north-west corner; thence by the western side of Bray's stores southerly to the south-western corner of store one hundred and fifty-three; thence by part of the southern boundary of the land recently owned by A. C. Bray and the northern side of Wharf-street westerly to the north-western corner of Wharf-street; thence southerly by the western side of Wharf-street to the northern side of Market-street; thence crossing Market-street and the Baltic Wharf property recently resumed as an approach to Pyrmont Bridge southerly to the north-east corner of that part of the Albion Wharf land recently held under lease by A. McArthur and Company; thence by the western boundary of a lane twenty feet wide bounding that lease and the lease to John Lysaght (Limited) southerly to the south-western corner of the said lane, which is a point on the northern boundary of the land recently owned by Robert Reid and Company; thence by part of the northern boundary of that land easterly to Sussex-street, which is a point on the boundary of the land resumed by the proclamation of the third day of May, one thousand nine hundred, before referred to; thence generally in a southerly direction by that boundary to the waters of Port Jackson; thence again by high-water mark generally westerly to the iron wharves at the head of Darling Harbour; thence by the landward boundary of those wharves and a line northerly to the northern side of Union-street; thence by that side westerly to the western side of Murray-street; thence generally north-westerly by the south-easterly boundaries of the unsold portions of the land resumed for wharfage purposes by Gazette notice of the seventh day of August, one thousand eight hundred and ninety-six, to the southern side of John-street; thence easterly along that side to its intersection with the prolongation southerly of the western boundary of the land resumed for railway purposes at Darling Island by Gazette notice of the fourth day of June, one thousand eight hundred and eighty-nine; thence by that prolongation and the said western boundary northerly to high-water mark; thence again by high-water mark around all bays, coves, rivers, creeks, inlets, indentations, points, promontories, headlands, &c., to the north-western side of the Pyrmont Bridge road; thence by that side of that road south-westerly to the north-eastern boundary of the Auckland Timber Company's property; thence by that boundary north-westerly to high-water mark; thence again by high-water mark along all bays, coves, rivers, creeks, canals, inlets, indentations, points, promontories, headlands, &c., to the mouth of the Parramatta River; thence again by high-water mark of all arms and the right bank of that river upwards to the dam at the town of Parramatta; thence by that dam north-westerly to high-water mark of the left bank of the said river; thence, again, by high-water



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water mark along that bank downwards to its junction with the right bank of Lane Cove River; thence, again, by high-water mark along that bank of that river upwards to the head of navigation; thence by high-water mark of the left bank of that river downwards to its junction with the northern side of Port Jackson; and thence, again,  
5 by high-water mark along all bays, coves, harbours, rivers, creeks, canals, inlets, indentations, points, promontories, headlands, &c., including all arms of Middle and North Harbours, to the point of commencement.

[1s. 6d.]

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Sydney: William Applegate Gullick, Government Printer.—1900.



History of the County

water mark along the bank of the river, and the junction with the right bank of land  
 to the head of navigation; there is a low water mark on the left bank of the river  
 denoted by its junction with the river, and the junction with the river, and the junction  
 of the water mark along the river, and the junction with the river, and the junction  
 North Harbor, to the point of measurement.

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