

CALCUTTA IMPROVEMENT ACT, 1911

5 of 1911

[20th September, 1911]

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CALCUTTA IMPROVEMENT ACT, 1911

5 of 1911

[20th September, 1911]

An Act to provide for the improvement and expansion of Calcutta. WHEREAS it is expedient to make provision for the improvement and expansion of Calcutta by opening up congested areas, laying out or altering streets, providing open spaces for purposes of ventilation or recreation, demolishing or constructing buildings, [clearing bustees, executing housing schemes and schemes for the rehousing of persons displaced by the execution of improvement schemes, acquiring land for the said purposes and all works relating thereto], and otherwise as hereinafter appearing ; AND WHEREAS it is expedient that a Board of Trustees should be constituted and invested with special powers for carrying out the objects of this Act ; AND WHEREAS the sanction of the Governor-General has been obtained, under section 5 of the Indian Councils Act, 1892, to the provisions of this Act, which affect Acts passed by the Governor-General of India in Council ; AND WHEREAS the sanction of the Governor-General has also been obtained, under section 43 of the Indian Councils Act, 1861, to the enactment of the provisions of Chapter V of this Act, relating to taxation ; It is hereby enacted as follows :

CHAPTER 1

Preliminary

1. Short title, commencement and extent :-

(1) This Act may be called the Calcutta Improvement Act, 1911.

(2) It shall come into force on such day¹ as the² [State Government] may, by notification, direct.

(3) Except as otherwise hereinafter provided, this Act shall extend only to the Calcutta Municipality ; but any provision which extends only to the Calcutta Municipality may be extended by the² [State Government], entirely or in part, by notification, under the procedure prescribed by section 148, to any specified area in the neighbourhood of that Municipality.

1. See Notification No. 1148, dated the 30.10.1911.

2. Words subst. by the Adaptation of Laws Order, 1950.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,

¹(1a) "betterment fee" means the fee prescribed by section 78A in respect of an increase in value of land resulting from the execution of an improvement scheme ;

(a) "the Board" means the Board of Trustees for the improvement of Calcutta, constituted under this Act;

²(aa) "Building line" means a line (in rear of the street alignment) up to which the main wall of a building abutting on a projected public street may lawfully extend;

³(b) "the Calcutta Municipality" means "Calcutta" as defined in clause (II) of section 5 of the Calcutta Municipality Act, 1951;

(c) "Chairman" means the Chairman of the Board;

(d) "the Corporation" means the Corporation of Calcutta constituted under the said ³[Calcutta Municipal Act, 1951].

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⁶(f) "improvement scheme" means an improvement scheme as described in section 35D, but does not include a projected public street or a projected public park referred to in section 63;

(g) "land" has the same meaning as in clause (a) of section 3 of the Land Acquisition Act, 1894;

(h) "municipal assessment-book" means the assessment-book kept

⁵[under section 185 of the Calcutta Municipal Act, 1951] or the valuation and rating list prepared under ⁸[section 136 of the Bengal Municipal Act, 1932];

(J) "notification" means a notification published in the ⁹[Official Gazette];

(k) "Secretary to the Board" means the person for the time being appointed by the Board to discharge the functions of Secretary to the Board;

(l) the "Tribunal" means the Tribunal constituted under section 72;

(m) "Trustee" means a member of the Board; and

¹⁰ (n) the expressions "bustee", "drain", "public street" and "street alignment" have the same meaning as in clauses (10), (26), (60) and (72), respectively, of section 5 of the Calcutta Municipal Act, 1951.

1. Clause (la) inst. by Ben. Act 8 of 1931.

2. Clause (aa) inst. by Ben. Act 3 of 1915.

3. Clause (b). words and figures in clause (a) subst. by W.B. Act 32 of 1955.

5. Clause (el) repealed by Ben. Act 1 of 1939.

6. Clause (f) words and figures in clause (h), subst. by W.B. Act 32 of 1955.

8. Words and figures subst. by Ben. Act 1 of 1939.

9. Words subst. by the Government of India (Adaptation of Indian Laws] Order. 1937.

10. Clause (ri) subst. by W.B. Act 32 of 1955.

CHAPTER 2

The Board of Trustees

3. Creation and incorporation of Board :-

The duty of carrying out the provisions of this Act shall, subject to the conditions and limitations hereinafter contained, be vested in a Board, to be called, "The Trustees for the Improvement of Calcutta"; and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

4. Constitution of the Board :-

(1) the Board shall consist of 12[twelve Trustees] namely:

(a) a Chairman, appointed by the State Government by notification,

(b) the Commissioner of the Corporation, ex-officio,

(c) three members of the Corporation elected by the Corporation,

(cc) an official of the Calcutta Metropolitan Development Authority appointed by the State Government by notification,

(d) two members representing the four Chambers of Commerce, that is to say, the Bengal Chamber of Commerce, the Bengal National Chamber of Commerce, the Indian Chamber of Commerce and the Bharat Chamber of Commerce, elected in the manner prescribed by rules by the State Government, and

(e) four other persons appointed by the State Government by notification.

(2) The names of the persons elected under clauses (c) and (d) of subsection (1) shall be published by notification by the Chairman.

4A. [(Appointment of Trustees while the Corporation is superseded.) :-

omitted by W. B. Act 52 of 1950].

5. [(Appointment of Trustees) :-

Omitted by W. B. Act 32 of 1955.]

6. [(Ex-officio Trustee) :-

Omitted by W. B. Act 32 of 1955).

7. [(Ejection of other Trustees) :-

Omitted by W. B. Act of 1955].

8. Appointment in default of election :-

If any of the bodies of electors referred to in [clause (c) or clause (d) of sub-section (1) of section 4] does not, by such date as may be prescribed by rule made in that behalf under section 137, elect a person to be a Trustee, the [State Government] shall, by notification, appoint a person belonging to such body to be a Trustee; and any person so appointed shall be deemed to be a Trustee as if he had been duly elected by such body.

9. Disqualifications for being appointed or elected a trustee

:-

(1) A person shall be disqualified for being appointed or elected a Trustee if he

(a) has been sentenced by any Court for any non-bailable offence, such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the ¹ [State Government] is hereby empowered to make, if it thinks fit, in this behalf; or

(b) is an undischarged insolvent; or

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

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

(e) is a director, or a secretary, manager or other salaried officer, of any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board.

(2) But a person shall not be disqualified as aforesaid, or be deemed to have any share or interest in such contract or employment as aforesaid, by reason only of his having a share of interest in

(i) any sale, purchase, lease, or exchange of land, or any agreement for the same; or

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

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

(iv) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one financial year, of any article in which he trades;

1. Words subst. by the Adaptation of Laws Order, 1950.

10. The Chairman to be a whole-time officer ordinarily :-

¹. While any person is holding the office of Chairman, he shall not hold any other salaried office and shall devote his whole time and attention to his duties under this Act:

Provided that the ² State Government may require him to hold some other salaried office in addition to the office of Chairman or may permit him to perform any honorary duties which in the opinion of the State Government will not interfere with the

performance of his duties under this Act.

1. Sec. 10 subst. by W.B. Act 22 of 1948.
2. Word subst. by the Adaptation of Laws Order, 1950.

11. Remuneration of Chairman :-

1

(1) The Chairman shall receive such monthly salary not exceeding three thousand and five hundred rupees as may be fixed by the State Government.

(2) the word "salary", as used in this section, excludes allowances to which the Chairman may be entitled and any contribution payable on his account under any general or special orders of the Government for regulating the transfer of Government servants to foreign service.

(3) The ²State Government may, if it thinks fit, direct the payment to the Chairman ¹[such house-rent and conveyance allowance as may be decided by it] in addition to his salary.

⁴(4) If under section 10, the ²State Government requires the Chairman to hold any salaried office in addition to the office of Chairman, the salary and allowances (if any) payable to the Chairman for his holding the office, other than the office of Chairman, or such portion thereof, as the ² State Government may decide, shall, instead of being paid to the Chairman, be payable to the Board for credit to the Revenue Account of the Board.

1. Sub-sec. (1) and words in sub-sec. (31 subst. by W.B. Act 42 of 1983.
2. Word subst. by the Adaptation of Laws Order, 1950.
4. Sub-sec. (4) inst. by W.B. Act 22 of 1948.

12. Leave of absence for deputation of the Chairman :-

(1) The ¹State Government may, after consultation with the Board, grant leave of absence to the Chairman or depute him to other duties, for such period as it thinks fit.

(2) The allowance (if any) to be paid to the Chairman while absent on leave or deputation shall be such amount, not exceeding his salary, as may be fixed by the ²[State Government] :

³Provided that, if the Chairman is a servant of the Government, the amount of such allowance of such allowance shall be such as he

may be entitled to under the conditions of his service under ² Government relating to transfer to foreign service.

1. Word subst. by the Adaptation of Laws Order, 1950.
2. Words subst. by the Adaptation of Laws Order, 1950.
3. Proviso subst. by the Government of India (Adaptation of Indian Laws) Order, 1937.

13. Appointment, etc., of acting Chairman :-

(1)¹[When] the Chairman is granted leave of absence or deputed to other duties, the ²[State Government] may appoint a person to act as Chairman ¹[during the period of leave or deputation, as the case may be.]

(2) The salary and house-rent and conveyance allowance (if any) of any person appointed to act as Chairman shall be fixed by the ² [State Government], subject to the provisions of section 11.

(3) Any person appointed to act as Chairman shall exercise the powers and perform the duties conferred and imposed by and under this Act on the Chairman, and shall be subject to the same liabilities, restrictions and conditions as the Chairman.

1. Word subst. and words inst. by W.B. Act 32 of 1955.
2. Words subst. by the Adaptation of Laws Order, 1950.

14. Leave of absence to other Trustees :-

The Board may permit any Trustee, other than the Chairman or the ¹ [Commissioner of the Corporation], to absent himself from meetings of the Board for any period not exceeding six months.

1. Words subst. by Ben. Act 1 of 1939 and W.B. Act 32 of 1955, respectively.

15. Removal of Trustees :-

(1) The ¹[State Government] may, by notification, declare that any Trustee shall cease to be a Trustee

(a) if he has acted in contravention of section 23, or

(b) if he has been absent from, or is unable to attend, the meetings of the Board for any period exceeding six consecutive months, or

(c) if he has, without the permission of the Board, been absent from the meetings of the Board for any period exceeding three

consecutive months, or

(d) if he is a salaried servant of the Government, and if his continuance in office as a Trustee is, in the opinion of the ¹[State Government], undersirable.

(2) The ¹[State Government] shall, by notification declare that a Trustee shall cease to be a Trustee

(c) if he has become disqualified for appointment or election as a Trustee for any of the reasons mentioned in section 9; or

(d) if was elected or appointed as being a member of the Corporation, the Bengal Chamber of Commerce or the Bengal National Chamber of Commerce⁴[or the Indian Chamber of Commerce or the Bharat Chamber of Commerce] and if he is, at the date of such notification, no longer a member of the Corporation or such Chamber, as the case may be.

(3) If at any time it appears to the ⁵ [State Government] that the Chairman has shown himself to be unsuitable for his office, or has been guilty of any misconduct or neglect which renders his removal expedient, it may, by notification, declare that the Chairman shall cease to hold office as such.

1. Words subst. by the Adaptation of Laws Order, 1950.

4. Words inst. by W.B. Act 32 of 1955.

5. Words subst. by the Adaptation of Laws Order. 1950.

16. Filling of casual vacancies in certain cases :-

If any Trustee be permitted by the Board to absent himself from meetings of the Board for any period exceeding three months, or if any Trustee, other than the ¹[Commissioner of the Corporation], dies, or resigns the office of Trustee, or ceases to hold the office of Trustee in pursuance of a notification published under section 15, the vacancy shall be filled, within one month, by a fresh appointment or election under ¹ [sub-section (1) of section 4] or section 8, as the case may be.

1. Words, figures and brackets subst. by W.B. Act 32 of 1955.

17. Term of office or Trustees :-

(1) The term of office of the first Trustees appointed or elected under ¹[sub-section (1) of section 4] or section 8, other than the Chairman, shall commence on such day as may be appointed by

the ²[State Government],

(2) Subject to the provisions of section 15, the term of office of Trustees other than the ³[Commissioner of the Corporation] shall be as follows:

⁴(a) the Chairman such period not exceeding three years as may be fixed by the State Government:

Provided that the State Government may, if it thinks fit, extend or reduce the period from time to time.

(b) a Trustee appointed or elected in pursuance of section 16 in the place of a Trustee who has been permitted to absent himself from meetings of the Boars the period of the absence of the latter Trustee;

(c) other Trustees three years :

³ Provided that when a vacancy occurs in the seat of a member elected under clause (c) or clause (d) of sub-section (7) of section 4 by death or resignation or for any other reason, the bodies concerned shall elect a person to fill the vacancy within such time as the State Government may prescribe by rules, and the Trustee so elected shall hold office as a member of the Board for the residue of the term of office of the member whose seat he is elected to fill.

(3) Any Trustee shall, if not disqualified for any of the reasons mentioned in section 9, be eligible for re-appointment or re-election at the end of his term of office.

1. Words, figures and brackets subst. by W.B. Act 32 of 1955.

2. Words subst. by the Adaptation of Laws Order. 1950.

3. Words subst. by Ben. Act 1 of 1939 and W.B. Act 32 of 1955. respectively. The Proviso subst. by W.B. Act 32 of 1955.

4. Clause (a) first subst. by W.B. Act 32 of 1955. Then tt was again subst. by the Sch. to W.B. Act 11 of 1972,

18. Meetings of Board :-

The Board shall meet, and shall from time to time make such arrangements with respect to the place, day, hour, notice, management and adjournment of their meetings, as they may think fit, subject to the following provisions namely:

(a) an ordinary meeting shall be held once at least in every month;

(b) the Chairman may, whenever he thinks fit, and shall upon the written request of not less than two other Trustees, call a special meeting;

(c) the Chairman shall attend every meeting of the Board unless absent on leave or prevented by sickness or other reasonable cause;

¹(d) one-third of the existing number of Trustees shall make a quorum for transaction of business at any meeting:

Provided that no quorum shall be necessary for an adjourned meeting;

²(e) every meeting shall be presided over by the Chairman and in his absence, by a Trustee chosen by the Trustees present to preside over the meeting;

{f) all questions shall be decided by a majority of votes of the Trustees present, the person presiding having a second or casting vote in all cases of equality of votes;

(g) if a poll be demanded, the names of the Trustees voting, and the nature of their votes, shall be recorded by the person presiding;

² (h) minutes of the proceedings of each meeting (together with the names of the Trustees present) shall be recorded and such minutes shall be

(i) read at the next ensuing meeting by the person presiding at, such meeting,

(ii) signed by the person presiding at such meeting, and

(iii) open to inspection by any Trustee during office hours.

1. Clause (d) subst. by W.B. Act 42 of 1983.

2. Clauses (e) and (h) subst. by W.B. Act 32 of 1955.

19. Temporary Association of Members with The Board for particular purposes :-

(1) The Board may associate with themselves, in such manner and for such period as may be prescribed by rules made under section 138 ¹ [any person or persons! whose assistance or advice they may desire in carrying out any of the provisions of this Act.

(2) A person associated with themselves by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions of the Board relative to that purpose, but shall not have a right to vote at a meeting of the Board, and shall not be a member of the Board, and shall not be a member of the Board for any other purpose,

1. Words subst. by W.B. Act 32 of 1955.

20. Constitution and functions of Committees :-

(1) The Board may from time to time appoint Committees consisting of such persons of any of the following classes as they may think fit, namely:

(i) Trustees,

(ii) persons associated with the Board under section 19,

(iii) other persons whose assistance or advice the Board may desire as members of Committees:

Provided that no Committee shall consist of less than three persons.

(2) The Board may

(a) refer to such Committees, for inquiry and report, any matter relating to any of the purposes of this Act, and

(b) delegate to such Committees, by specific resolution, and subject to any rules made under section 138, any of the powers or duties of the Board.

(3) The Board may at any time dissolve, or, subject to the provisions of sub-section (1), alter the constitution of, any such Committee.

(4) Every such Committee shall conform to any instructions from time to time given to them by the Board.

(5) All proceedings of any such Committee shall be subject to confirmation by the Board.

21. Meetings of Committees :-

(1) Committees appointed under section 20 may meet and adjourn as they think proper ; but the Chairman may, whenever he thinks fit, call a special meeting of any Committee, and shall call a special meeting of any Committee upon the written request of not less

than two members thereof.

(2) The person to preside at a meeting of a Committee shall be the Chairman, if he is a member of the Committee, or, if he is not a member ¹[or is absent], then the members present shall choose one of their number to preside.

² (3) One-half of the number of the members of the Committee shall make a quorum for transaction of business at any meeting :

Provided that no quorum shall be necessary for an adjourned meeting.

(4) All questions at any meeting of a Committee shall be decided by a majority of votes of the members present, the person presiding having a second or casting vote in air cases of equality of votes.

1. Words inst. by W.B. Act 32 of 1955.

2. Sub-sec. (3) subst. by W.B. Act 42 of 1983.

22. Fees for attendance at Meetings :-

Every Trustee (other than the Chairman), and every person associated with the Board under section 19, shall be entitled to receive a fee of ¹[fifty rupees], and every member of a Committee shall be entitled to receive a fee of ¹[twenty five rupees], for each meeting of the Board or the Committee

(i) at which a quorum is present and business is transacted, and

(ii) which he attends ³ * * * * * ;

Provided that the aggregate amount of fees payable to any person in respect of meeting of any kind held during any month shall not exceed such sum as may be prescribed by any rule made under section 137 in this behalf,

1. Words subst. by W.B. Act 42 of 1983.

3. Words omitted by W.B. Act 32 of 1955.

23. Trustees and Associated Members of Board or Committee not to take part in proceedings in which they are personally interested :-

(1) A Trustee who

(a) has, directly or indirectly, by himself or by any partner, employer or employee, any such share or interest as is described in

sub- section (2) of section 9, in respect of any matter, or

(b) has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take any other part in any proceeding of the Board or any Committee relating to such matter,

(2) If any Trustee, or any person associated with the Board under section 19, or any other member of a Committee appointed under this Act, has, directly or indirectly, any beneficial interest in any land situated in an area comprised in any improvement scheme framed under this Act, or in an area in which it is proposed to acquire land for any of the purpose of this Act,

(i) he shall, before taking part in any proceeding at a meeting of the Board or any Committee relating to such area, inform the person presiding at the meeting of the nature of such interest,

(ii) he shall not vote at any meeting of the Board or any Committee upon any resolution or question relating to such land, and

(iii) he shall not take any other part in any proceeding at a meeting of the Board or any Committee relating to such area if the person presiding at the meeting considers it inexpedient that he should do so.

23A. Power of Board to execute certain works or to render certain services :-

¹ The Board may, on behalf of any person or the State Government, execute any work or render any service, not being a work or service which is inconsistent with the provisions of this Act, in any area to which this Act applies on such terms and conditions as may be agreed upon between the Board and such person or the State Government, as the case may be :

Provided that when any work is executed or any service is rendered on behalf of any person, no such work shall be executed or services rendered except with the previous sanction of the State Government.

1. Sec. 23A inst. by W.B. Act 8 of 1972.

24. Power to make and perform contracts :-

The Board may ¹ [perform all such functions or] enter into and perform all such contracts as they may consider necessary or expedient for carrying out any of the purposes of this Act.

1. Words and sec. 24A inst. and provisos subst. by W.B. Act 32 of 1955.

24A. Power of Board to determine if execution of work, etc., should be by contract :-

¹ The Board may determine either generally for any class of cases or specially for any particular case whether the work should be executed or materials purchased by contract or otherwise.

1. Words and sec. 24A inst. and provisos subst. by W.B. Act 32 of 1955.

25. Execution of contracts and approval of estimates :-

(1) Every such contract shall be made on behalf of the Board by the Chairman:

¹ Provided that a contract, involving an expenditure exceeding ²[fifty thousand rupees] shall not be made by the Chairman without the previous sanction of the Board;

¹ Provided further that a contract involving an expenditure exceeding ²[twenty-five lakhs of rupees] shall not be made without the previous sanction of the State Government;

(2) Every estimate for the expenditure of any sum for carrying out any of the purposes of this Act shall be subject to the approval of the authority who is empowered by sub-section (1) to make or sanction the making of a contract involving the expenditure of a like sum.

(3) Sub-sections (1) and (2) shall apply to every variation ⁵ * * * of a contract on estimate, as well as to an original contract or estimate.

1. Words and sec. 24A inst. and provisos subst. by W.B. Act 32 of 1955.

2. Words subst. by W.B. Act 42 of 1983.

5. Words omitted by W.B. Act 32 of 1955.

26. Further provision as to execution of contracts, and provision as to seal of Board :-

(1) Every contract made by the Chairman on behalf of the Board shall be entered into in such manner and form as would bind the Chairman if such contract were made on his own behalf, except that the common seal of the Board shall be used (where

necessary); and every such contract may in the like manner and form be varied or discharged.

(2) Every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding ¹ [five thousand rupees] shall be in writing, and shall be sealed.

(3) The common seal of the Board shall remain in the custody of the Secretary to the Board, and shall not be affixed to any contract or other instrument except in the presence of a Trustee (other than the Chairman), who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

(4) The signature of the said Trustee shall be in addition to the signature of any witness to the execution of such contract or instrument.

(5) A contract not executed as provided in this section shall not be binding on the Board.

1. Words subst. by W.B. Act 42 of 1983.

27. Tenders :-

(1) At least seven days before the Chairman enters into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding ¹[fifty thousand rupees] he shall give notice by advertisement in focal newspapers inviting tenders for such contract:

²Provided that the Board may, at the instance of the Chairman and with the sanction of the State Government, for season which shall be recorded in the proceedings, authorize the Chairman to enter into a contract without inviting tenders.

(2) In every such case the Chairman shall place before the Board the specifications, conditions and estimates and all the tenders received, specifying the particular tender (if any) which he proposes to accept.

(3) In every case in which the acceptance of a tender would involve an expenditure exceeding ¹[twenty-five lakhs of rupees], ⁴[State Government] the specifications, conditions and estimates, and all the tenders received, specifying the particular tender (if any) the acceptance of which they propose to sanction.

(4) Neither the Board nor the ³[State Government] shall be bound

to sanction the acceptance of any tender which has been made; but the Board, within the pecuniary limits of their powers, as prescribed in section 25, sub-section (1), or the ³ [State Government], may sanction the acceptance of any of such tender which appears to them, upon a view of all the circumstances, to be the most advantageous, or may direct the rejection of all the tenders submitted to them.

1. Words subst. by W.B. Act 42 of 1983.
2. Proviso added by W.B. Act 32 of 1955.
4. Words subst. by the Adaptation of Laws Order, 1950.

28. Security for performance of contract :-

The Chairman shall take sufficient security for the due performance of every contract involving an expenditure exceeding ¹ [five thousand rupees].

1. Words subst. by W.B. Act 42 of 1983.

29. Supply of documents and information to the Government :-

(1) The Chairman shall forward to the ¹[State Government] a copy of the minutes of the proceedings of each meeting of the Board, within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed in section 18, clause (h).

(2) If the ¹[State Government] so directs in any case, the Chairman shall forward to it a copy of all papers which were laid before the Board for consideration at any meeting.

(3) The ¹ [State Government] may require the Chairman to furnish it with

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Board, or

(b) a report on any such matter, or

(c) a copy of any document in the charge of the Chairman.

1. Words subst. by the Adaptation of Laws Order, 1950.

29A. Power to State Government to require Board to take action :-

1 .

(1) If after consideration of any report or of any information received, the State Government is of opinion

(a) that any action taken by the Board is unlawful or irregular or any duty imposed upon it by or under this Act has not been performed or has been performed in an imperfect, insufficient or unsuitable manner, or

(b) that adequate financial provision has not been made for the performance of any duty, the State Government may by an order restrain the Board from performing the act or direct the Board within a period specified

Provided that, unless in the opinion of the State Government the immediate execution of such order is necessary, the State Government shall before making an order under this sub-section give the Board an opportunity of showing cause why such order shall not be made.

(2)

(a) If within the period specified in any order issued under subsection (1) any action directed under that sub-section has not been duly taken, or cause to the satisfaction of the State Government is not shown under the proviso to that sub-section, the State Government may, by order,

(i) appoint a person to take the action so directed,

(ii) fix the remuneration to be paid to him, and

(iii) direct that such remuneration and the cost of taking such action shall be defrayed out of the Board's capital account;

(b) the person appointed under clause (a), may, for the purpose of taking the action directed as aforesaid, exercise any of the powers conferred on the Board by or under this Act which are specified in that behalf in the order issued under clause (a).

(3) The State Government may, after consideration of any representation which may be made by the Board by written order, annul or omit from the records any proceeding of the Board which it considers not to be in conformity with this Act or any rules made thereunder or with any other law, and may do all things necessary to secure such conformity.

1. Sec. 29A inst. by W.B. Act 13 of 1975.

30. Statement of strength and remuneration of staff :-

The Board shall from time to time prepare, and shall maintain, a statement showing

- (a) the number, designations and grades of the officers and servants (other than employees who are paid by the day or whose pay is charged to temporary work) whom they consider it necessary and proper to employ for the purposes of this Act,
- (b) the amount and nature of the salary, fees and allowances to be paid to each such officer and servant, and
- (c) the contributions payable under section 146 in respect of each such officer and servant.

31. Board to make rules :-

The Board shall from time to time make rules

- (a) fixing the amount and nature of the security to be furnished by any officer or servant of the Board from whom it may be deemed expedient to require security;
- (b) for regulating the grant of leave of absence, leave allowances and acting allowances to the officers and servants of the Board;
1**
- (c) for establishing and maintaining a provident or annuity fund, for compelling all or any of the officers or servants of the Board (other than any ²[servant of the Government] in respect of whom a contribution is paid under section 146) to contribute to such fund, at such rates and subject to such conditions as may be prescribed by such rules, and for supplementing such contributions out of the funds of the ³[Board;]
- ⁴{d) regulating the compassionate allowance and gratuities to officers and servants of the Board and families of deceased officers and servants;
- ⁴(e) prescribing the qualifications for employment of officers and servants of the Board; and
- ⁴{f) regulating the conduct of officers and servants of the Board:

⁷Provided that a servant of the ²[Government] employed as an officer or servant of the Board shall not be entitled to leave or leave allowances otherwise than as may be prescribed by the conditions

of his service under the ² [Government] relating to transfer to foreign service.

1. Words omitted by W.B. Act 32 of 1955.
2. Words subst. by the Adaptation of Laws Order. 1950.
3. Word subst. by W.B, Act 32 of 1955.
4. Clauses (a), (e) and (ft inst. by W.B. Act 32 of 1955.
7. Proviso subst. by the Government of India (Adaptation of Indian Laws} Order. 1937.

32. Powers of Appointment, etc., in whom vested :-

1

(1) Subject to any directions contained in any statement prepared under section 30 and any rules made under section 31, and for the time being in force, the power of appointing, promoting and granting leave to officers and servants of the Board, and reducing, suspending or dismissing them for misconduct, and dispensing with their services for any reason other than misconduct, shall be vested

(a) in the case of officers and servants whose monthly salary does not exceed ²[seven hundred and fifty rupees] in the Chairman, and

(b) in other cases in the Board:

Provided that any officer or servant in receipt of a monthly salary exceeding ³[five hundred rupees] who is reduced, suspended or dismissed by the Chairman may appeal to the Board, whose decision shall be final:

⁴Provided further that the Chairman or the Board, as the case may be, may, with the previous sanction of the State Government, place an officer or servant under suspension where a disciplinary proceeding or a departmental enquiry against the officer or the servant is contemplated or is pending or where a case against such officer or servant in respect of any criminal offence is under investigation.

⁴ (2) Notwithstanding anything contained in sub-section (1), the State Government shall have power to appoint any person who is or has been in the service of the State Government to any post of the Board carrying a monthly salary exceeding one thousand and five hundred rupees:

Provided that the person so appointed shall be under the administrative control of the Chairman.

1. Sec. 32 was renumbered as sub-sec. (1) of that sec. by W.B. Act 42 of 1983.
2. Words subst. by W.B. Act 42 of 1983.
3. Words subst. by W.B. Act 42 of 1983.
4. Proviso and sub-sec. (2) added by W.B. Act 42 of 1983.

33. Sanction of State Government required to certain statements, rules and orders :-

(a) All statements prepared under section 30, so far as they relate to officers carrying a salary of more than one thousand rupees per mensem.

(b) all rules made under ¹[clause (b), clause (c), clause (d)\ clause (e) or clause (f)] of section 31, and

(c) all orders passed by the Board under ²[sub-section (1) of section 32], and relating to any officer appointed to hold an office carrying a salary of more than ²[one thousand and five hundred rupees] per mensem, except orders granting leave to, ⁴* * * *, any such officer, shall be subject to the previous sanction of the ⁵ [State Government].

1. Subst. by W.B. Act 32 of 1955.
2. Subst. by W.B. Act 42 of 1983.
4. Words omitted W.B. Act 42 of 1983.
5. Subst. by the Adaptation of Laws Order, 1950.

34. Control by Chairman :-

The Chairman shall exercise supervision and control over the acts and proceedings of all officers and servants of the Board; and, subject to the foregoing sections, shall dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances.

35. Delegation of certain of Chairmans functions :-

(1) The Chairman may, by general or special order in writing, delegate to any officer of the Board any of the Chairman's powers, duties or functions under this Act or any rule made hereunder, except those conferred or imposed upon or vested in him by sections 18, 21, 29, 55, 108, 112, 116, 118, 154 and 158:

Provided as follows:

(a) the Chairman shall not delegate his power under section 25 to make on behalf of the Board any contract involving an expen-

diture exceeding ¹[five thousand rupees]; ²* * * * * ² * * * * *
* * *

(2) The exercise or discharge by any officer of any powers, duties or functions delegated to him under sub-section (1) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order, and also to control and revision by the Chairman.

1. Words subst. by W.B. Act 42 of 1983.
2. Clauses (b) and [c) omitted by W.B. Act 42 of 1983.

CHAPTER 3

[Improvement Schemes]

35A. Undertaking of works and incurring of expenditure for development of areas :-

¹ The Board may, subject to the provisions of this Act, undertake any works and incur any expenditure for the improvement and development of any area to which this Act applies and for the framing and execution of such improvement schemes as may be necessary from time to time.

1. Secs. 35A to 35C inst. by W.B. Act 32 of 1955.

35B. Matters to be considered when framing improvement schemes :-

¹ When framing an improvement scheme in respect of any area, regard shall be had to

(a) the nature and the conditions of neighbouring areas and of Calcutta as a whole;

(b) the several directions in which the expansion of Calcutta appears likely to take place; and

(c) the likelihood of improvement schemes being required for other parts of Calcutta.

1. Secs. 35A to 35C inst. by W.B. Act 32 of 1955.

35C. Matters to be provided for in improvement schemes :-

¹

(1) An improvement scheme may provide for all or any of the following matters, namely:

(a) the acquisition by the Board of any land in the area comprised in the scheme, which will in their opinion be required for or affected by the execution of the scheme;

(b) the laying out or re-laying out of the land comprised in the scheme;

(c) the demolition, alteration or reconstruction of buildings or portions of buildings situated on the land which it is proposed to acquire in the said area;

(d) the construction of any building which the Board may consider necessary to erect for carrying out any of the purposes of this Act;

(e) the laying out or construction or alteration of streets (including bridges, causeways, culverts}, if required, and the levelling, paving, metalling, flagging and channelling of such streets and planting of flower bushes or trees on the sides of such streets;

(f) the sewerage and draining of such streets and the provision therein of water, lighting and other sanitary conveniences ordinarily provided in a municipality;

(g) raising, lowering or levelling of any land in the area comprised in the scheme;

(h) the provision of accommodation for any classes of inhabitants;

(i) the formation and retention of open spaces, gardens, parks, playgrounds, lakes, and the provision therein of athletic tracks and stadiums, recreation buildings and structures and other necessary aids to field and aquatic sports, arboriculture and any other objects which the Board consider desirable to provide;

(j) controlling the use of land developed by the Board by zoning or reserving areas for specific purposes;

(k) any other matters consistent with this Act, which the Board may think fit.

(2) When areas are reserved for specific purposes, under clauses (i) and (j) of sub-section (1), it shall be the duty of the Corporation or the Commissioners of the municipality, within whose jurisdiction such areas are situate, to prohibit and prevent their use in violation of such purposes.

1. Secs. 35A to 35C inst. by W.B. Act 32 of 1955.

35D. Types of improvement schemes :-

¹ An improvement scheme may be of one of the following types or a combination of any two or more of such types or of any special

features thereof, that is to say

- (a) a general improvement scheme,
- (b) a street scheme,
- (c) a housing accommodation scheme,
- (d) a re-housing scheme.

1. Sec. 35D inst. by W.B. Act 32 of 1955,

36. When General Improvement Scheme may be framed :-

¹ Whenever it appears to the Board, whether upon official representation made under section 37 or without such representation,

(a) that any buildings in any area which are used as dwelling places are unfit for human habitation, or

(b) that danger to the health of the inhabitants of any area or of a neighbouring area is caused by

(i) the narrowness, closeness and bad arrangement and conditions of streets or buildings or groups of buildings in such area, or

(ii) the want of light, air, ventilation or proper conveniences in such area, or

(iii) any other sanitary defects in such area, or

(c) that any area is undeveloped or has been developed without a satisfactory plan or design and that it is necessary to develop or re-develop it on a better plan after incorporating all or some of the improvements mentioned in section 35C, the Board may pass a resolution to the effect that a general improvement scheme ought to be framed in respect of such area and may then proceed to frame such a scheme.

1. This ser. subst. by W.B. Act 32 of 1955.

37. Authority for making an official representation for a General Improvement Scheme :-

(1) An official representation referred to in section 36 may be made by the Corporation

(a) of their own motion; or

(b) on a written complaint by the ¹[Commissioner] of the

Corporation; or

(c) in respect of any area comprised in a municipal ward, on a written complaint signed by twenty-five or more residents of such ward who are liable to pay either the owner's share or the occupier's share of the consolidated rate leviable under ² [the Calcutta Municipal Act, 1951.]

(2) If the Corporation decide not to make an official representation on any complaint made to them under clause (b) or clause (c), they shall cause a copy of such complaint to be sent to the Board, with a statement of the reasons for their decision.

1. Word subst. by W.B. Act 32 of 1955.

2. Words and figures subst. by W.B. Act 32 of 1955.

38. Consideration of official representations :-

(1) The Board shall consider every official representation made under section 37, and, if satisfied as to the truth thereof and to the sufficiency of their resources, shall decide whether a general improvement scheme to carry such representation into effect should be framed forthwith or not, and shall forthwith intimate their decision to the Corporation.

(2) If the Board decide that it is not necessary or expedient to frame a general improvement scheme forthwith, they shall inform the Corporation of the reasons for their decision.

(3) If the Board fail, for a period of twelve months after the receipt of any official representation made under section 37 to intimate their decision thereon to the Corporation, or if the Board intimate to the Corporation their decision that it is not necessary or expedient to frame a general improvement scheme forthwith, the Corporation may, if they think fit, refer the matter to the 66[State Government].

(4) The ¹[State Government] shall consider every reference made to it under sub-section (3), and

(a) if it considers that the Board ought, under all the circumstances, to have passed a decision within the period mentioned in sub-section (3), shall direct the Board to pass a decision within such further period as the ¹[State Government] may think reasonable, or

(b) if it considers that it is, under all the circumstances, expedient that a scheme should forthwith be framed, shall direct the Board to proceed forthwith to frame a scheme.

(5) The Board shall comply with every direction given by the ³ [State Government] under sub-section (4).

1. Words subsl. by the Adaptation of Laws Order. 1950.

3. Words subst. by the Adaptation of Laws Order. 1950.

39. When street scheme may be framed :-

Whenever the Board are of opinion that, for the purpose of

(a) providing building-sites, or

(b) remedying defective ventilation, or

(c) creating new, or improving existing, means of communication and facilities for traffic, or

(d) affording better facilities for conservancy,

it is expedient to lay out new streets or to alter existing streets (including bridges, causeways and culverts), the Board may pass a resolution to that effect, and shall then proceed to frame a street scheme for such area as they may think fit.

39A. Housing Accommodation Scheme :-

¹ Whenever the Board are of opinion that it is expedient and for the public advantage to provide housing accommodation for any class of persons in any area to which this Act applies, the Board may frame a scheme to be called a housing accommodation scheme, for the aforesaid purpose.

1. Secs. 39A, 39B and inst by W. B. Act 32 of 1955.

39B. Rehousing persons displaced by improvement schemes

:-

¹ The Board may frame schemes (in this Act called rehousing schemes) for the construction, maintenance and management of such and so many dwellings, shops and other classes of accommodation as they may consider ought to be provided for persons who

(a) are displaced by the execution of any improvement scheme sanctioned under this Act, or

(b) are likely to be displaced by the execution of any improvement scheme which it is intended to frame, or to submit to the State

Government for sanction under this Act.

1. Secs. 39A, 39B and inst by W. B. Act 32 of 1955.

39C. Provisions to be made for the rehousing of Bustee Dwellers in the case of certain schemes :-

1

(1) When a general improvement scheme mentioned in section 36 or a housing accommodation scheme mentioned in section 39A or a combination of both, is likely to involve displacement of persons dwelling in a bustee, provisions for rehousing such persons shall be made either in the same scheme or by another scheme and the scheme or schemes, as the case may be, together with a statement of the rent or rents proposed to be charged for such rehousing, shall be submitted to the State Government for its approval before any steps are taken under section 43.

(2) In considering the scheme or schemes submitted under sub-section (1), the State Government shall have regard to the rent or rents indicated in the said scheme or schemes for accommodation to be provided for the displaced bustee-dwellers, and may, if necessary, give financial aid to the Board in order that the rent may be such as, in the opinion of the State Government, is reasonable, and also lay down the conditions for giving such aid before the scheme or schemes is or are sanctioned under section 48.

(3) The Board shall be entitled to proceed to execute under section 49 any scheme referred to in sub-section (1) provided that no bustee-dwellers are displaced until arrangements for rehousing them have previously been made.

1. See. 39C inst. by W. B. Act 32 of 1955.

40. [(Matters to be considered when framing improvement schemes.) :-

Omitted by W.B. Act 32 of 1955.

41. [(Matters which must be provided for in improvement schemes.) :-

Omitted by W.B. Act 32 of 1955.

42. [(Matters which may be provided for in improvement schemes.) :-

Omitted by W.B. Act 32 of 1955.

43. Preparation, publication and transmission of notice as

to improvement scheme, and supply of documents to applicants :-

(1) When any improvement scheme has been framed, the Board shall prepare a notice, stating

(a) the fact that the scheme has been framed,

(b) the boundaries of the area comprised in the scheme, and

(c) the place at which particulars of the scheme, a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire ¹[and of the land in regard to which it is proposed to recover a betterment fee], may be seen at reasonable hours.

(2) The Board shall

(i) cause the said notice to be published weekly for three consecutive weeks in the ²[Official Gazette] and in local newspapers, with a statement of the period within which objections will be received, and

³ (ii) send a copy of the notice to the Commissioner of the Corporation, to the Chairman of any Municipality constituted under the Bengal Municipality Act, 1932, to the General Manager of the Calcutta Metropolitan Water and Sanitation Authority and to the Chief Executive Officer of the Calcutta Metropolitan Development Authority within whose jurisdiction any portion of the area comprised in the scheme is situated.

(3) The Chairman shall cause copies of all documents referred to in clause (c) of sub-section (1) to be delivered to any applicant on payment of such fee as may be prescribed by rule made under section 138.

1. Words inst. by Ben. Act 8 of 1931.

2. Words subst. by the Government of India (Adaptation of Indian Laws) Order, 1937.

3. Clause (ii) by W. B. Act 42 of 1983.

44. Transmission to Board of Representation by Corporation, Municipality or Authority :-

¹ The Commissioner of the Corporation, the Chairman of any Municipality, the General Manager of the Calcutta Metropolitan Water and Sanitation Authority or the Chief Executive Officer of the Calcutta Metropolitan Development Authority, to whom a copy of

the notice has been sent under clause (ii) of sub-section (2) of section 43 shall, within a period of sixty days from the date of receipt of the said copy, forward to the Board any representation which the Corporation, the Municipality or the Authority concerned, as the case may be, may think fit to make with regard to the scheme:

Provided that any direction issued by any authority constituted under the West Bengal Town and Country (Planning and Development) Act, 1979, to the Board as to the improvement scheme shall be carried out by the Board.

1. Sec. 44 first subst. by SCH. III to W. B. Act 13 of 1966. Then it was again subst. by W. B. Act 42 of 1983.

45. Service of notice as to proposed acquisition of land or recovery of betterment fee :-

(1) During the thirty days next following the first day on which any notice is published under section 43 in respect of any improvement scheme, the Board shall serve a notice on

(i) every person whose name appears in the municipal assessment-book as being primarily liable to pay the owner's share of the consolidated rate, or the rate on the annual value of holdings, as the case may be, in respect of any land which the Board propose to acquire in executing the scheme ¹[or in regard to which they propose to recover a betterment fee], and

(ii) the occupier (who need not be named) of each premises or holding entered in the municipal assessment-book, which the Board propose to acquire in executing the scheme.

(2) Such notice shall

(a) state that the Board propose to acquire such and ²[or to recover such betterment fee] for the purpose of carrying out ³[an improvement scheme], and

(b) require such person, if he dissents from such acquisition ² [or from the recovery of such betterment fee], to state his reasons in writing within a period of sixty days from the service of the notice.

(3) Every such notice shall be signed by, or by the order of the Chairman.

1. Words subst. by Ben. Act 8 of 1931.

2. Words inst. by Ben. Act 8 of 1931.
3. Subst. by W. B. Act 32 of 1955.

46. Furnishing of copy of, or extracts from, the Municipal Assessment Book :-

The ¹[Commissioner of the Corporation], and the Chairman of any Municipality constituted under the Bengal Municipal Act, ² [1932], in any part of which this section is for the time being in force, shall, respectively, furnish the Chairman, at his request, with a copy of, or extracts from, the municipal assessment-book at such charges as may be field by rule made under section 137.

1. Words subst. by Ben. Act 1 of 1939 and W. B. Ad 32 of 1955. respectively.
2. Figures subst. by Ben. Act 1 of 1939.

47. Abandonment of improvement scheme, or application to State Government to sanction it :-

(1) After the expiry of the periods respectively prescribed under section 43, clause (i), and by section 44 and section 45, clause (6), in respect of any improvement scheme, the Board shall consider any objection, representation and statement of dissent received thereunder, and, after hearing all persons making any such objection, representation or dissent who may desire to be heard, the Board may either abandon the scheme or apply to the ¹[State Government] for sanction to the scheme, with such modifications (if any) as the Board may consider necessary.

(2) Every application submitted under sub-section (1) shall be accompanied by-

(a) a description of, and full particulars relating to, the scheme, and complete plans and estimates of the cost of executing the scheme;

(b) a statement of the reasons for any modifications made in he scheme as originally framed;

(c) a statement of objections (if any) received under section 43;

(d) any representation received under section 44;

(e) a list of the names of all persons (if any) who have dissented, under section 45, clause (ft), from the proposed acquisition of their land ²[or from the proposed recovery of a betterment fee], and a statement of the reasons given for such dissent; and

(f) a statement of the arrangements made or proposed by the Board for the re-housing of persons ³* * * * * who are likely to be displaced by the execution of the scheme.

(3) When any application has been submitted to the ⁴[State Government] under sub-section (1), the Board shall cause notice of the fact to be published for two consecutive weeks in the ⁵ [Official Gazette] and in local newspapers.

1. Words subst. by the Adaptation of Laws Order, 1950.
2. Words inst. by Ben. Act 8 of 1931.
3. Words omitted by W. B. Act 32 of 1955.
4. Words subst. by the Adaptation of Laws Order, 1950.
5. Words subst. by the Government of India (Adaptation of Indian Laws) Order. 1937.

48. Power to sanction or reject improvement scheme :-

The ¹ [State Government] may sanction, either with or without modification, or may refuse to sanction, any improvement scheme submitted to it under section 47.

1. Words subst. by the Adaptation of Laws Order, 1950.

49. Notification of sanction to improvement scheme :-

(1) Whenever the ¹ [State Government] sanctions an improvement scheme, it shall announce the fact by notification, and the Board shall forthwith proceed to execute the scheme.

(2) The publication of a notification under sub-section (1), in respect of any scheme, shall be conclusive evidence that the scheme has been duly framed and sanctioned.

1. Words subst. by the Adaptation of Laws Order, 1950.

50. Alteration of improvement scheme after sanction :-

At any time after any improvement scheme has been sanctioned by the ¹[State Government] and before it has been carried into execution, the Board ²[may alter or cancel it] :

Provided as follows :

(a) if any alteration estimated to increase the estimated net cost of executing a scheme by more than five per cent, of such cost, such alteration shall not be made without the previous sanction of the ¹[State Government];

(b) if any alteration involves the acquisition, otherwise than by

agreement, of any land the acquisition of which has not been sanctioned by the ¹[State Government], the procedure prescribed in the foregoing sections of this chapter shall, so far as applicable, be followed, as if the alteration were a separate scheme;

⁵(c) if, owing to charges made in the course of a scheme, any land not previously liable under the scheme to the payment of a betterment fee, becomes liable to such payment, the provisions of sections 43, 45 and 47 shall, so far as they are applicable, be followed in any such case.

⁶ (d) no scheme shall be cancelled without giving the Corporation or the Municipality, as the case may be, an opportunity to express its views within sixty days of the receipt of the notice of the cancellation and without previous sanction of the State Government.

1. Words subst. by the Adaptation of Laws Order. 1950.

2. Words subst. by W. B. Act 32 of 1955.

5. Clause (c) inst. by Ben. Act 8 of 1931.

6. Clause (d) inst. by W. B. Act 32 of 1955.

51. Combination of improvement schemes :-

Any number of areas in respect of which improvement schemes have been, or are proposed to be framed, may at any time be included in one combined scheme.

52. (Re-housing persons displaced by improvement schemes.) :-

Omitted by W. B. Act 32 of 1955.

53. Width of streets :-

No street laid out or altered by the Board shall be of less width than

(a) forty feet, if the street be intended for carriage traffic, or

(b) twenty feet, if the street be intended for foot traffic only:

Provided as follows:

(i) the width of an existing street need not be increased to the minimum required by this section, if the Board consider it impracticable to do so;

(ii) nothing in this section shall be deemed to prevent the Board from laying out service passages for sanitary purposes of any width

less than twenty feet.

54. Transfer to Board, for purposes of improvement scheme, of building or land vested in the Corporation or in the Commissioners of a Municipality :-

1

(1) Whenever any building, or any street, square or other land, or any part thereof, which

(a) is situated in the Calcutta Municipality and is vested in the Corporation, or

(b) is situated in any part of any Municipality constituted under the Bengal Municipal Act, ²[1932], in which this section is for the time being in force, and is vested in the Commissioners of that Municipality,

³[Commissioner of the Corporation] or the Chairman of such Municipality, as the case may be, and such building, street, square, other land or part, shall thereupon vest in the Board subject in the case of any building or any land, not being a street or square, to the payment of compensation, if any, to the Corporation or to such Commissioners, as the case may be, under sub-section (3):

⁴Provided that the Corporation or the Commissioners, as the case may be, shall be allowed reasonable opportunity to remove at their cost any under-group pipes, cables or other fixtures belonging to them if they so desire.

(2) Where any land vests in the Board under the provisions of sub-section (1) and the Board make a declaration to the Corporation that such land will be retained by the Board only until it reverts in the Corporation as part of the street or an open space, under a declaration made by the Corporation under sub-section (1) of section 65 or a resolution passed by the Board under sub-section (2) of section 65, as the case may be, no compensation shall be payable by the Board to the Corporation in respect of that land.

(3) Where any land or building vests in the Board under sub-section (1) and no declaration is made by the Board that the land will be so retained, the Board shall pay to the Corporation, or to the Commissioners, as the case may be, as compensation for the loss resulting from the transfer of such land or building to the Board, a sum equal to the market value of the said land or building ⁵[as on the date of the publication of the notification under section 49] and

where any building, situated on land in respect of which a declaration has been made by the Board under sub-section (2), is vested in the Board under sub-section (1), like compensation shall be payable in respect of such building by the Board.

(4) If, in any case where the Board have made a declaration to the Corporation in respect of any land under sub-section (2), the Board retain or dispose of the land contrary to the terms of the declaration, so that the land does not revert in the Corporation as contemplated under such declaration, like compensation shall be payable by the Board to the Corporation in respect of such land for the loss resulting from the on-transfer of such land to the Corporation, such compensation not to be less than the market value which would have been payable for the said land under the provisions of sub-section (3).

(5) If any question of dispute arises

(a) as to whether compensation is payable under sub-section (3) or sub-section (4), or

(b) as to the sufficiency of the compensation paid or proposed to be paid under sub-section (3) or sub-section (4), or

(c) as to whether any building or street, or square or other land, or any part thereof is required for the purposes of the scheme, the matter shall be referred to the ⁶ [State Government], whose decision shall be final.

1. Sec. 54 subst. by Ben. Act 9 of 1923.

2. Figures subst. by Ben. Act 1 of 1939.

3. Words subst. by Ben. Act 1 of 1939 and W. B. Act 32 of 1955, respectively.

4. Proviso inst. by W. B. Act 32 of 1955.

5. Subst. by W. B. Act 32 of 1955.

6. Words subst. by the Adaptation of Laws Order, 1950.

55. Transfer of private street or square to Board for purposes of improvement scheme :-

(1) Whenever any street or square or part thereof which is not vested in the Board or in the Corporation or in the Commissioners of any Municipality constituted under the Bengal Municipal ¹ [1932], is required for executing any improvement scheme, the Board shall cause to be affixed in a conspicuous place in or near such street, square or part, a notice, signed by the Chairman, and

(a) stating the purpose for which the street, square or part is required, and

(b) declaring that the Board will, on or after a date to be specified in the notice, take over charge of such street, square or part from the owner thereof,

(2) After considering and deciding all objections (if any) received in writing before the date so specified, the Board may take over charge of such street, square or part from the owner thereof; and the same shall thereupon vest in the Board.

(3) When the Board alter or close any street or square or part thereof which has vested in them under sub-section (2), they shall pay reasonable compensation to the previous owner for the loss of his rights therein.

(4) If the alteration or closing of any such street, square or part causes damage or substantial inconvenience to owners of property adjacent thereto, or to residents in the neighbourhood, the Board

(i) shall forthwith provide some other reasonable means of access for the use of persons who were entitled to use such street, square or part as a means of access to any property or place, and

(ii) if the provision of such means of access does not sufficiently compensate any such owner or resident for such damage or inconvenience, shall also pay him reasonable compensation in money.

1. Figures subst. by Ben. Act 1 of 1939.

56. Provision of drain or waterwork to replace another situated on land vested in the Board under section 54 or section 55 :-

(1) When any building, or any street, square or other land, or any part thereof, has vested in the Board under section 54 or section 55, no municipal drain or waterwork therein shall vest in the Board until another drain or waterwork (as the case may be), if required, has been provided by the Board, to the satisfaction of the ¹[Corporation of Calcutta] or of the Commissioners of the Municipality constituted under the Bengal Municipal Act (Ben. Act. 15 of 1932), ²[1932], as the case may be, in place of the former drain or work.

(2) If any question or dispute arises as to whether another drain or waterwork is required, or as to the sufficiency of any drain or waterwork ³ [State Government] whose decision shall be final.

1. Subst. by Ben. Act 1 of 1939.

2. Figures subst. by Ben. Act 1 of 1939.

3. Words subst. by the Adaptation of Laws Order, 1950.

57. Bar to application of certain sections of the Calcutta Municipal Act, 1951, to streets vested in the Board :-

(1) ¹[Sections 350, 351, 362 and clause (c) of section 361 of the Calcutta Municipal Act, 1951] shall not apply to any street which is vested in the Board.

(2) ²[Rules 5 and 6 in Schedule XV to] the said Act shall not apply when any drain, pavement or surface referred to in the said ² [rule 5] is opened or broken up by the Board or when any public street is under construction by the Board.

1. Subst. by W.B. Act 32 of 1955.

2. Subst. by W. B. Act 32 of 1955.

58. Repair and watering of streets vested in the Board :-

Whenever the Board allow any street vested in them to be used for public traffic,

(a) they shall, as far as practicable, keep the street in good repair and do all things necessary for the safety and convenience of persons using it, and

(b) they shall cause the street to be watered, if they consider it necessary to do so for the public convenience.

59. Guarding and lighting when street vested in the Board is opened or broken up, or when street is under construction and speedy completion of work :-

Whenever any drain in, or the pavement or surface of, any street vested in the Board is opened or broken up by the Board for the purpose of carrying on any work, or whenever the Board allow any street which they have under construction to be used for public traffic, the Board shall cause the place to be fenced and guarded and to be sufficiently lighted during the night, and shall take proper precautions for guarding against accident by shoring up and protecting adjoining buildings, and shall, with all convenient speed, complete the said work, fill in the ground, and repair the said drain,

pavement or surface, and carry away the rubbish occasioned thereby or complete the construction of the said street, as the case may be.

60. Prevention or restriction of traffic in street vested in the Board, during progress of work :-

(1) When any work referred to in section 59 is being executed by the Board in any public street vested in them, or when any other work which may lawfully be done is being executed by the Board in any street vested in them, the Board may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.

(2) When any such direction has been given, the Board shall set up in a conspicuous position in or near the street an order prohibiting traffic to the extent so directed, and shall fix such bars, chains or posts across or in the street as they may think proper for preventing or restricting traffic therein, after notifying in local newspapers their intention to do so.

61. Provision of facilities, and payment of compensation, when work is executed by Board in public street vested in them :-

(1) When any work is being executed by the Board in any public street vested in them, the Board shall, so far as may reasonably be practicable, make adequate provision for

(a) the passage or diversion of traffic;

(b) securing access to all premises approached from such street; and

(c) any drainage, water-supply or means of lighting which is interrupted by reason of the execution of the work.

(2) The Board shall pay reasonable compensation to any person who sustains special damage by reason of the execution of any such work.

62. Power of Board to turn or close public street or square vested in them :-

(1) The Board may

(a) turn, divert, discontinue the public use of, or permanently close,

any public street vested in them or any part thereof, or

(b) discontinue the public use of, or permanently close, any public square vested in them, or any part thereof.

(2) Whenever the Board discontinue the public use of, or permanently close, any public street vested in them or any part thereof, they shall pay reasonable compensation to every person who was entitled, otherwise than as a mere licensee, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(3) Whenever the Board discontinue the public use of, or permanently close, any public square vested in them, or any part thereof, they shall pay reasonable compensation to every person

(a) who was entitled, otherwise than as a mere licensee, to use such square or part as a means of access, or

(b) whose immovable property was veritiated by such square or part, and who has suffered damage,

(i) in case (a), from such discontinuance or closing, or

(ii) in case (6), from the use to which the Board have put such square or part.

(4) In determining the compensation payable to any person under subsection (2) or sub-section (3), the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street or square at or about the same time that the public street or square or part thereof, on account of which the compensation is paid, is discontinued, or closed.

(5) When any public street or square vested in the Board, or any part thereof, is permanently closed under sub-section (1), the Board may sell, or lease so much of the same as is no longer required.

63. Projected public streets :-

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(1) The Board may from time to time in regard to any area

(a) within the Calcutta Municipality, or

(b) in the neighbourhood of the said municipality, make plans of

(i) proposed public streets showing the direction of such streets, the street alignment and building line (if any), on each side of them, their intended width and such other details as may appear desirable, and

(ii) proposed public parks showing such details as may appear desirable.

(2) When a plan of a proposed public street [or a proposed public park] has been made under sub-section (1), the Board shall prepare a notice stating

(a) the fact that such plan has been made,

(b) particulars of the land (shown in such plan) ³[comprised within the proposed public park or] through which the proposed public street will pass.

(c) the place at which the said plan and particulars may be seen at reasonable hours, and

(d) the period (which shall be not less than sixty days) within which objections to the said plan may be submitted to the Board; and the Board shall thereupon

(i) cause the said notice to be published weekly for two consecutive weeks in the ⁴[Official Gazette] and in local newspapers, and in such other manner as the Board may direct, and

(ii) forward a copy of the said notice to any person whose name appears in the municipal assessment-book as being primarily liable to pay the owner's share of the consolidated rate, or the rate on the annual value of holdings, as the case may be, in respect of any land included within the proposed public street ⁵[or the proposed public park], and

(iii) forward a copy of the said notice and of the plan to which it relates to the ⁶[Commissioner of the Corporation] and, if any area in the neighbourhood of the Calcutta Municipality is included in such plan, to the Chairman of the local authority administering any portion of such area, and

(iv) cause copies of the said notice and plan to be delivered to any applicant on payment of such fee as may be prescribed by rule made under section 138.

(3) On or after a date (not being less than sixty days from the date of the first publication of the notice) to be appointed by the Board in this behalf, the Board shall consider

(a) all objections in writing received from any person affected by the proposed public street ⁷[or the proposed public park] contemplated by such plan, and

(b) any representation in regard to such street ⁷[or public park] made to the Board by the Corporation or the aforesaid local authority;

⁹[State Government] for sanction thereto with such modification (if any) as the Board may consider necessary,

(4) If the Board apply for sanction as provided in sub-section (3) they shall simultaneously forward to the ⁸[State Government] a full statement of all objections and representations made to them under the said sub- section.

(5) When a plan of a proposed public street ⁷[or a proposed public park] has been submitted to the ⁸[State Government] under sub-section (3), the Board shall cause notice of the fact to be published for two consecutive weeks in the ¹³[Official Gazette] and in local newspapers.

(6) The ⁸[State Government] may sanction, either with or without modification, or may refuse to sanction, any plan of a proposed public street ⁹[or a proposed public park] submitted to it under sub-section (3).

(7) Whenever the ⁸[State Government] sanctions a plan of a proposed public street ⁷[or a proposed public park], it shall announce the fact by notification, and the publication of such notification shall be conclusive evidence that the plan has been duly made and sanctioned; and the proposed public street ⁷[or a proposed public park] to which such notification refers shall be deemed to be a projected public street ⁷[or a projected public park], and shall be so deemed until

(a) such street ²⁰[or park] has been declared, under section 65 or section 66, as the case may be, to be a public street ¹⁰[or park], or

(b) the said notification has been cancelled by another notification:

Provided that such cancellation shall not affect the validity of any action taken by the Board in pursuance of the said notification.

(8) If any person desires to erect, re-erect or add to any wall (exceeding ten feet in height) or building which falls within ¹⁰[the area comprised in a projected public park or within] the street alignment or building line of a projected public street shown in any plan sanctioned by the ²³[State Government under this section, he shall submit an application in writing to the Chairman for permission so to do

Provided as follows :

(i) no such application shall be necessary for permission to erect or re-erect, between a building line and the street alignment,

(a) a porch or balcony, or

(b) along not more than one-third of the frontage, an out-house not exceeding fifteen feet in height;

(ii) nothing in this sub-section shall relieve any person from the liability to obtain such sanction as it may be necessary to obtain under any law for the time being in force from any local authority.

(9) The Chairman shall in no case refuse an application submitted under sub-section (8) if the applicant executes an agreement binding himself and his successors in interest to remove, without compensation, any wall or building to which that application relates, in the event of the Board

(a) deciding (at any time after an improvement scheme has been sanctioned under section 48 for an area within which such building or wall is situate) that the said wall or building, or any portion thereof, ought to be removed, and

(b) calling upon the owner for the time being, by written notice, to remove the same within a time (not being less than sixty days from the date of the service of the notice) to be specified in the said notice.

(10) If the Chairman does not, within thirty days from the receipt of an application submitted under sub-section (8), grant or refuse the permission applied for thereunder, such permission shall be deemed to have been granted.

(11) If the Chairman refuses permission to any person to erect, re-

erect or add to any wall or building as aforesaid which falls

(i) within the street alignment, or

(ii) between the street alignment and the building line, of a projected public street ²⁴ [or within a projected public park], the owner of the land on which it was sought to erect, re-erect or add to such wall or building, may call upon the Board, at any time, within three months from the date of such refusal either

(a) to pay him compensation for any damage sustained by him in consequence of such refusal, or

(b) to acquire so much of his land as falls within the street alignment or between the street alignment and the building line 10[or within the area comprised in the projected public park], as the case may be;

Provided that, in the case of such land as falls within the street alignment only, it shall be optional with the Board to acquire the same in lieu of paying compensation therefor.

(12) An appeal shall lie to the Board from any refusal by the Chairman to grant an application under this section.

1. Ser, 63 subst. by Ben. Act 3 of 1915.
2. Sub-sec. (1) subst. by W. B. Act 32 of 1955.
3. Inst. by W. B. Act 32 of 1955.
4. Words subst. by the Government of India (Adaptation of Indian Laws) Order. 1937.
5. Words inst. by W. B. Act 32 of 1955.
6. Words subst. by Ben. Act 1 of 1939 and W. B. Act 32 of 1955. respectively.
7. Words inst. by W. B. Act 32 of 1955.
9. Words subst. by the Adaptation of Laws Order. 1950.
13. Words subst. by the Government of India (Adaptation of Indian Laws) Order. 1937.
20. Words inst. by W. B. Act 32 of 1955.
23. Words subst. by the Adaptation of Laws Order. 1950.
24. Words inst. by W. B. Act 32 of 1955.

64. . Reference of disputes to Tribunal :-

(1) If any question or dispute arises

(a) between the Board and the previous owner of any street or square or part thereof which has vested in the Board under section 55 and has been altered or closed by them, as to the sufficiency of the compensation paid or proposed to be paid under sub-section

(3) of that section, or

(b) between the Board and any person who was entitled, otherwise than as a mere licensee, to use as a means of access any street or square or part thereof which has vested in the Board under section 55,

(i) as to whether the alteration or closing of such street, square or part causes damage or substantial inconvenience to owners of property adjacent thereto or to residents in the neighbourhood, or

(ii) as to whether the other means of access provided or proposed to be provided under sub-section (4) of the said section 55 are reasonably sufficient, or

(iii) as to the sufficiency of any compensation paid or proposed to be paid under the said sub-section (4), or

(c) between the Board and any person, as to the sufficiency of any compensation paid or proposed to be paid to him under section 61, section 62 or section 63, the matter shall be determined by the Tribunal, if referred to it, either by the Board or by the claimant, within a period of three months from

(2) If a reference to the Tribunal be not made within the period prescribed by sub-section (1), the decision of the Board shall be final.

(3) For the purpose of determining any matter referred to it under subsection (1), the Tribunal shall have all the powers with regard to witnesses, documents and costs which it would have if the Land Acquisition Act, 1894, as modified by section 71 of this Act, were applicable to the case.

65. Vesting in Corporation of streets laid out or altered, and open spaces provided, by the Board under an Improvement Scheme :-

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(1) When the Board are of opinion

(a) that any street laid out or altered by them has been duly levelled, paved, metalled, flagged, channelled, sewered and drained in the manner provided in the plan sanctioned by the State Government under section 48,

(b) that such lamps, lamps-posts or other apparatus as are

necessary for the lighting of such street have been provided, and

(c) that water and other sanitary conveniences ordinarily provided in a Municipality have been duly provided in such street,

Provided as follows:

(a) no engineering or accommodation work not included in the scheme as sanctioned by the State Government under section 48 shall be required to be done by the Board except with the latter's consent as a condition of such transfer;

(b) when certain works in connection with the street can be taken up only after a lapse of time to allow for consolidation of roads or the erection of buildings on both sides, the declaration shall not be put off till they are completed, but shall not be made, within the time prescribed under this sub-section on the Board giving an undertaking that they shall complete the works when asked by the Corporation to do so.

²(2) As soon as the works required to be done by the Corporation as aforesaid are completed, the Board shall report the fact to the Corporation; and it shall be the duty of the Corporation to declare the street to be a public street by written notice affixed in some conspicuous position in such street within two months from the date of receipt of the report, on the expiry of which period the liability of the Board to maintain the street and the street lighting or to pay the Corporation rates assessed on the lands comprised within such street shall cease.

³(3) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any improvement scheme, it shall, on completion, be transferred to the Corporation by resolution of the Board, and shall thereupon vest in, and be maintained at the expense of the Corporation:

Provided that the ⁴[Corporation of Calcutta] may require the Board before any such open space is so transferred, to enclose, level, turf, drain and lay out such space and provide footpaths therein, and, if necessary, to provide lamps and other apparatus for lighting it.

³(4) If any difference of opinion arises between the Board and the ⁴[Corporation of Calcutta] in respect of any matter referred to in the ⁷ [State Government] whose decision shall be final.

1. Sub-Sec. (1) subst. by W. B. Act 32 of 1955.
2. Sub-sec. (2) subst. by W. B. Act 32 of 1955.
3. Previous sub-secs, (2) and (3) were re-numbered as sub-sec. (3) and (4) by W. B. Act 32 of 1955.
4. Words subst. by Ben. Act 1 of 1939.
7. Words subst. by the Adaptation of Laws Order. 1950.

66. Application of section 65 to other Municipalities :-

If section 65 be extended, by notification, under section 1, sub-section (3), to any Municipality in the neighbourhood of the Calcutta Municipality, it shall be construed as if the references therein to the General Committee and the Corporation were references to the Commissioners of the former Municipality.

67. Power of Board to retain service passages :-

Notwithstanding anything contained in section 65 or section 66, the Board may retain any service passage which they have laid out for sanitary purposes, and may enter into an agreement with the Corporation or any other person for the supervision, repair, lighting and general management of any passage so retained,

CHAPTER 4

Acquisition and Disposal of Land

68. Power to purchase or lease by agreement :-

The Board may enter into an agreement with any person for the purchase or leasing by the Board from such person of any land * * * * or any interest in such land [for carrying out any of the purposes of this Act.]

Explanation. The power of the Board to acquire land or any interest in such land by purchase or lease may be exercised not only in respect of lands falling within an improvement scheme already framed but also in respect of lands relating to which the Board may frame improvement schemes' in future and shall be exercised after obtaining the previous sanction of the State Government.

69. Power to acquire land under the Land Acquisition Act, 1894 :-

The Board may, with the previous sanction of the [State Government], acquire land under the provisions of the Land Acquisition Act, 1894, for carrying out any of the purposes of this Act. Explanation. The power of the Board to acquire land under the Land Acquisition Act, 1894, may be exercised not only in respect of lands falling within an improvement scheme already framed but also in respect of lands relating to which the Board may frame

improvement. schemes in future.

70. Tribunal to be constituted :-

A Tribunal shall be constituted, as provided in section 72, for the purpose of performing the functions of the Court in reference to the acquisition of land for the Board under the Land Acquisition Act, 1894.

71. Modification of the Land Acquisition Act, 1894 :-

For the purpose of acquiring land under the said Act for the Board,

(a) the Tribunal shall (except for the purposes of section 54 of that Act) be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge, under the said Act;

(b) the said Act shall be subject to the further modifications indicated in the schedule;

(c) the President of the Tribunal shall have power to summon and enforce the attendance of witnesses, and to compel the production of documents, by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908; and

(d) the award of the Tribunal shall be deemed to be the award of the Court under the said Land Acquisition Act, 1894, and [shall, subject to the provisions of section 77A, be final].

72. Constitution of Tribunal :-

(1) The said Tribunal shall consist of a President and two assessors.

(2) The president of the Tribunal shall be either

¹(a) a person who was or has been a member of the Judicial Service as defined in Article 236 of the Constitution of India for at least ten years and held a rank not inferior to that of a Subordinate Judge for at least three years; or,

¹(b) a barrister or advocate who has practised as such in the Calcutta High Court for not less than ten years.

(3) The President of the Tribunal and one of the assessors shall be appointed by the ³[State Government], and the other assessor shall be appointed by the Corporation ⁴[within the time fixed by the State Government], or, in default of the Corporation, by the ²[State Government]:

Provided that no person shall be eligible for appointment as a member of the Tribunal if he is a Trustee or is, for any of the reasons mentioned in section 9, disqualified for appointment as a Trustee.

(4) The term of office of each member of the Tribunal shall be two years; but any member shall, subject to the proviso to sub-section (3), be eligible for reappointment at the end of that term;

⁶Provided that a member who is an assessor shall not be eligible for reappointment for more than a further term of two years.

(5) The ²[State Government] may, on the ground of incapacity or misbehaviour, or for any other good and sufficient reason, cancel the appointment of any person as a member of the Tribunal.

(6) When any person ceases for any reason to be a member of the Tribunal, or when any member is temporarily absent in consequence of illness or any other unavoidable cause, the ²[State Government] or (if the person whose place is to be filled was appointed by the Corporation) the Corporation, or, in default of the Corporation, the ² [State Government] shall forthwith appoint a fit person to be a member in his place.

(7) All appointments made under this section shall be published by notification.

1. Clauses (a) and (b) subst. by W. 13. Act 32 of 1955,
3. Words subst, by the Adaptation of Laws Order. 1950.
4. Words inst. by W. B. Act 32 of 1955.
6. Proviso added by W. B. Act 32 of 1955.

73. Remuneration of members of Tribunal :-

Each member of the Tribunal shall be entitled to receive such remuneration, either by way of monthly salary or by way of fees, or partly in one of those ways and partly in the other, as the ¹ [State Government] may prescribe.

1. Words subst. by the Adaptation of Laws Order, 1950.

74. Officers and servants of Tribunal :-

(1) The President of the Tribunal shall, from time to time, prepare a statement showing

(a) the number and grades of the clerks and other officers and servants ¹[who] he considers should be maintained for carrying on

the business of the Tribunal,

(b) the amount of the salary to be paid to each such officer and servant, and

(c) the contributions payable under section 146 in respect of each such officer and servant.

(2) The President of the Tribunal shall, from time to time, make rules

¹(ai) prescribing the qualifications, the period of service, the age of superannuation and other conditions of service of the officers and servants of the Tribunal;

(i) for regulating the grant of leave of absence, leave allowances and acting allowances to the officers or servants of the Tribunal; and

(ii) for establishing and maintaining a provident or annuity fund, for compelling all or any of the officers or servants of the Tribunal (other than any ³[servant of the Government] in respect of whom a contribution is paid under section 146) to contribute to such fund, at such rates and subject to such conditions, as may be

⁴Provided that a servant of the ⁵[Government] employed as an officer or servant of the Tribunal shall not be entitled to leave or leave allowances otherwise than as may be prescribed by the conditions of his service under the ⁴ [Government] relating to transfer to foreign service.

(3) All statements prepared under sub-section (1), and all rules made under sub-section (2), shall be subject to the previous sanction of the [State Government].

(4) Subject to any directions contained in any statement prepared under sub-section (1) and any rules made under sub-section (2), and for the time being in force, the power of appointing, promoting and granting leave to officers and servants of the Tribunal, and the power of reducing, suspending or dismissing them, shall vest in the President of the Tribunal.

1. Word subst. and clause (ai) inst, by W. B. Act 32 of 1955.

3. Words subst. by the Government of India (Adaptation of Indian Laws) Order.

4. Proviso subst. by the Government of India (Adaptation of Indian Laws) Order, 1937.

5. Words subst. by the Adaptation of Laws Order, 1950.

75. Payments by Board on account of Tribunal :-

The remuneration prescribed under section 73 for members of the Tribunal, and the salaries, leave allowances and acting allowances prescribed under section 74 for officers and servants of the Tribunal, shall be paid by the Board to the President of the Tribunal for distribution.

76. Power to make rules for Tribunal :-

(1) The President of the Tribunal may, from time to time, with the previous sanction of the ¹ [State Government], make rules, not repugnant to the Code of Civil Procedure 1908, for the conduct of business by the Tribunal.

(2) All such rules shall be published by notification.

1. Words subst. by the Adaptation of Laws Order, 1950.

77. Award of Tribunal how to be determined :-

(1) For the purpose of determining the award to be made by the Tribunal under the Land Acquisition Act, 1894

(a) if there is any disagreement as to the measurement of land, or the amount of compensation or costs to be allowed, the opinion of the majority of the members of the Tribunal shall prevail;

(b) questions relating to the determination of the persons to whom compensation is payable, or the apportionment of compensation, may be tried and decided in the absence of the assessors if the President of the Tribunal considers their presence unnecessary; and when so tried and decided, the decision of the President shall be deemed to be the decision of the Tribunal; and

(c) notwithstanding anything contained in the foregoing clauses, the decision on all questions of law and procedure shall rest solely with the President of the Tribunal.

(2) Every award of the Tribunal, and every order made by the Tribunal for the payment of money, shall be enforced by the Court of Small Causes of Calcutta as if it were a decree of that Court.

77A. Appeal :-

1

(1) An appeal shall lie to the High Court from an award under this

Chapter, in any of the following cases, namely:

(a) where the decision is that of the President of the Tribunal sitting alone in pursuance clause (b) of section 77;

(b) where the decision is that of the Tribunal, and

(i) the President of the Tribunal grants a certificate that the case is a fit one for appeal, or

(ii) the High Court grants special leave to appeal: Provided that the High Court shall not grant such special leave unless the President of the Tribunal has refused to grant a certificate under sub-clause (i) and the amount in dispute is five thousand rupees or upwards.

(2) An appeal under clause (b) of sub-section (1) shall only lie on (one or more of) the following grounds, namely :

(i) the decision being contrary to law or to some usage having the force of law;

(ii) the decision having failed to determine some material issue of law or usage having the force of law;

(iii) a substantial error or defect in the procedure provided by Unsaid Act which may possibly have produced error or defect in the decision of the case upon the merits.

(3) Subject to the provisions of sub-sections (1) and (2), the provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees shall so far as may be, apply to appeals under this section.

(4) An appeal under this section shall be deemed to be an appeal under the Code of Civil Procedure, 1908, within the meaning of article 156 of the First Schedule to the Indian Limitation Act, 1908.

(5) The Chief Judge of the Court of Small Causes of Calcutta shall, on application, execute any order passed by the High Court on appeal under this Act as if it were a decree made by himself.

1. Sec. 77A added by W. B. Act 32 of 1955.

78. Abandonment of Acquisition in consideration of special payment :-

(1) In any case in which the ¹[State Government] has sanctioned the acquisition of land, in any area comprised in an improvement

scheme, which is not required for the execution of the scheme, the owner of the land, or any person having an interest therein, may make an application to the Board, requesting that the acquisition of the land should be abandoned in consideration of the payment by him of a sum to be fixed by the Board in that behalf.

(2) The Board shall admit every such application if it

(a) reaches them before the time fixed by the Collector, under section 9 of the Land Acquisition Act, 1894, for making claims in reference to the land, and

(b) is made by all persons who have interests in the land greater than a lease for years having seven years to run.

(3) If the Board ²* * * admit any such application, they shall forthwith inform the Collector; and the Collector shall thereupon stay for a period of three months all further proceedings for the acquisition of the land, ²[and if the Board decide to allow the application they shall proceed] to fix the sum in consideration of which the acquisition of the land may be abandoned.

(4) Within the said period of three months, or, with the permission of the Board, at any time before the Collector has taken possession of the land, under section 16 of the Land Acquisition Act, 1894, the person from whom the Board have arranged to accept the sum so fixed may, if the Board are satisfied that the security offered by him is sufficient, execute an agreement with the Board, either

(i) to pay the said sum three years after the date of the agreement, or

(ii) to leave the said sum outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest ⁴[at such rate not exceeding ⁵(ten per cent, per annum) as the ⁶[State Government) may fix by notification,] and to make the first annual payment of such interest four years after the date of the agreement:

Provided that the Board may-, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894, accept immediate payment of the said sum instead of an agreement as aforesaid.

(5) When any agreement has been executed in pursuance of sub-section (4), or when any payment has been accepted in pursuance

of the proviso to that sub-section, in respect of any land, the proceedings for the acquisition of the land shall be deemed to be abandoned.

(6) Every payment due from any person under any agreement executed under sub-section (4) shall be a charge on the interest of that person.

(7) If any instalment of interest payable under an agreement executed in pursuance of clause (ii) of sub-section (4) be not paid on the date on which it is due, the sum fixed by the Board under sub-section (3) shall be payable on that date, in addition to the said instalment.

(8) At any time after an agreement has been executed in pursuance of clause (ii) of sub-section (4), any person may pay off the charge created thereby, with interest, ⁷[at the rate fixed under the provisions of that clause] up to the date of such payment.

(9) When an agreement in respect of any land has been executed by any person in pursuance of sub-section (4), no suit with respect to such agreement shall be brought against the Board by any other person (except an heir, executor or administrator of the person first aforesaid) claiming to have an interest in the land.

(10) Notwithstanding anything contained in clause (ii) of sub-section (4) or in sub-section (8) the rate of interest payable, under the provisions of that clause or that sub-section, as the case may be, shall be, or continue to be, four per cent, per annum in cases where the sum, in consideration of which the acquisition of the land has been abandoned, has been fixed under sub-section (3) before the date of the commencement of the Calcutta Improvement (Amendment) Act, 1923, and the agreement in respect of the payment of the same is executed before, on or within two months after, that date.

⁸(11) Notwithstanding anything contained in clause (ii) of sub-section (4) or in sub-section (8), the rate of interest payable under the provisions of that clause or that sub-section, as the case may be, shall be, or continue to be, six per cent, per annum in cases where the sum, in consideration of which the acquisition of the land has been abandoned, has been fixed under sub-section (3) on or after the date of the commencement of the

⁹ (12) When an application has been made under sub-section (1)

and the Board are of opinion that the whole or any part of the land belonging to the applicant is not required for the execution of the scheme but that it is necessary that some adjoining land should be purchased by the applicant and amalgamated with his land or the portion not so required, in order to conform to the general layout of the scheme, they may permit the applicant to execute an agreement to purchase the adjacent land abovementioned and may at the same time fix a fee in consideration of which the land not required for the execution of the scheme may be exempted from acquisition. The price of the land sold together with the sum fixed as exemption fee shall then be dealt with in the manner provided in sub-section (4), and if the whole sum payable or any part of it is kept outstanding, it shall be secured as a charge on the interest of the applicant in the total area of the land sold to the applicant and of the land exempted. Sub-sections (5), (7) and (8) shall apply to such agreements in the same manner as in the case of total abandonment under the foregoing provisions of this section.

1. Words subst. by the Adaptation of Laws Order. 1950.
2. Words omitted and words subst. by W. B. Act 32 of 1955.
4. Words subst. by Ben. Art 2 of 1935.
5. Words subst. by W. B. Act 42 of 1983.
6. Words subst. by the Adaptation of Laws Order, 1950.
7. Words subst. by Ben. Act 2 of 1935.
8. Sub-sec. (11) inst. by Ben. act 2 of 1935.
9. sub-sec. (12) inst by W. B. Act 32 of 1955.

78A. Payment of betterment fee :-

1

(1) When by the making of any improvement scheme, any land in the area comprised in the scheme which is not required for the execution thereof will, in the opinion of the Board, be increased in value, the Board, in framing the scheme, may, in lieu of providing for the acquisition of such land, declare that a betterment fee shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of the scheme.

(2) Such betterment fee shall be an amount equal to one-half of the increase in value of the land resulting from the execution of the scheme, and shall be calculated upon the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of buildings exceeds the value of the land prior to the execution of the scheme estimated in like

manner.

1. The heading and Secs. 78A to 78C inst. by Ben. Act 8 of 1931.

78B. Assessment of betterment fee by Board :-

1

(1) When it appears to the Board that an improvement scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Board shall by a resolution passed in this behalf declare that for the purpose of determining such fee the execution of the scheme shall be deemed to have been completed and shall thereupon give notice in writing to every person on whom a notice in respect of the land to be assessed has been served under clause (i) of sub-section (1) of section 45 that the Board propose to assess the amount of the betterment fee payable in respect of such land under section 78A.

(2) The Board shall then assess the amount of betterment fee payable by each person concerned after giving such person an opportunity to be heard and such person shall within three months from the date of receipt of notice in writing of such assessment from the Board, inform the Board by a declaration in writing whether he accepts or dissents from the assessment.

(3) When the assessment proposed by the Board is accepted by the person concerned within the period specified in sub-section (2), such assessment shall be final.

(4) If the person concerned dissents from the assessment made by the Board or fails to give the Board the information required by sub-section (2) within the period specified therein, the matter shall be determined by arbitrators in the manner provided by section 78C.

1. The heading and Secs. 78A to 78C inst. by Ben. Act 8 of 1931.

78C. Settlement of betterment fee by arbitrators :-

(1) For the determination of the matter referred to in sub-section (4) of section 78B, the ¹[State Government] shall constitute a panel of arbitrators consisting of two parts, the first part of which shall be composed of persons having special knowledge of the valuation of land and the second part of other suitable persons.

(2) When the Board have, in accordance with the provisions of section 78B, assessed the amount of betterment fee payable by all

persons in respect of land in the area comprised in the scheme the Board shall serve a notice on all those persons who have dissented from the assessment made by the Board, requiring them to meet at such time and place as may be fixed by the Chairman for the purpose of electing an arbitrator.

(3) For each scheme there shall be a body of two arbitrators, one of whom shall be elected by vote by the persons present at the meeting referred to in sub-section (2) from one part of the panel, and the other shall be appointed by the ¹[State Government] from the other part of the panel:

Provided that for the purposes of a particular scheme the [State Government] may, prior to the election referred to in this sub-section, if it thinks fit, modify either part of the panel.

(4) In the event of a difference of opinion on any matter between the two arbitrators, a third arbitrator ³[who shall act as an umpire] shall be selected by lot from the first part of the panel, and ⁴[the decision of the umpire on the matter shall be final].

(5) If an arbitrator dies, resigns, becomes disqualified, is removed under sub-section (6), or refuses to perform or in the opinion of the ⁵[State Government] neglects to perform or becomes incapable of performing his functions, the authority who elected or appointed him shall forthwith elect or appoint a fit person to take the place of such arbitrator.

(6) If the ⁴[State Government] is satisfied after such inquiry as it thinks fit that the arbitrator has misconducted himself, it may remove him.

(7) When ³[an award has been made under and this section by the arbitrators or the umpire, as the case may be,] they shall sign it and forward it to the Board, and such award shall subject to the provisions of sub-section (8) be final and conclusive and binding on all persons.

(8) If the ⁴ [State Government] is satisfied after such inquiry as it thinks fit that an award has been improperly procured or that an arbitrator has misconducted himself in connection with an award, the [State Government] may set aside the award.

1. Words subst. by the Adaptation of Laws Order, 1930.

3. Words inst by W. B. Aci 32 of 1955.

4. Words subst. by W. B. Ac(32 of 1955.
5. Words subst. by the Adaptation of Laws order, 1950.

78D. Fees for arbitrators :-

¹The Board shall pay to each arbitrator a fee to be determined by the ² [State Government] in respect of the whole of the scheme for which his services are utilized.

1. Secs. 78D (o 78G inst. by Ben Act 8 of 1931.
2. Words subst. by W. B. Ac(32 of 1955.

78E. Proceedings of arbitrators :-

¹ Notwithstanding anything contained in any other enactment the proceedings of arbitrators under section 78C shall be governed by rules to be made in this behalf under section 137:

Provided that every party to such proceedings shall be entitled to appear before the arbitrators either in person or by his authorized agent.

1. Secs. 78D (o 78G inst. by Ben Act 8 of 1931.

78F. Board to give notice to persons liable to payment of betterment fee :-

¹When the amount of all betterment fees payable in respect of land in the area comprised in the scheme has been determined under section 78B or section 78C, as the case may be, the Board shall, by a notice in writing to be served on all persons liable to such payment, fix a date by which such payment shall be made, and interest, at the rate of ² [ten per cent, per annum] upon any amount outstanding shall be payable from that date.

1. Secs. 78D (o 78G inst. by Ben Act 8 of 1931.
2. Words subst. by W. B. Act 42 of 1983.

78G. Agreement to make payment of betterment fee a charge on land :-

¹

(1) Any person liable to the payment of a betterment fee may, at his option, instead of making a payment thereof to the Board, execute an agreement with the Board to leave the said payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of ² [ten per cent per annum] the first annual payment of such interest to be made one year from the date referred to in section 7SF.

(2) Every payment due from any person in respect of a betterment fee and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the existence of any mortgage or other charge whether legal or equitable created either before or after the commencement of the Calcutta Improvement (Amendment) Act, 1931, be the first charge upon the interest of such person in such land.

(3) The provisions of sub-sections (7), (8) and (9) of section 78 relating, in the case of the payments mentioned in that section, to the non-payment of instalments of interest, the paying off of the charge with interest, and the restrictions in respect of suits against the Board shall apply, mutatis mutandis, to the payment of the money payable under an agreement made in pursuance of sub-section (1) and of the interest payable in respect thereof.

1. Sees. 78D to 78G inst. by Ben Act 8 of 1931.

2. Words subst. by W. B. Act 42 of 1983.

79. Recovery of money payable in pursuance of sections 78, 78B, 78C or 78G :-

¹A11 money payable in respect of any land by any person under an agreement executed in pursuance of sub-section (4) of section 78, or by any person in respect of a betterment fee under section 78B or section 78C, or by any person under an agreement executed in pursuance of section 78G, sub-section (1), shall be recoverable by the Board together with interest, ²[due, up to the date of realization, which shall, in the case of betterment fees under section 78B or section 78C, be] at the rate of ¹[ten per cent, per annum], from the said person or his successor in interest in such land, in the manner provided by ⁴ [the Calcutta Municipal Act, 1951], for the recovery of the consolidated rate; and, if not so recovered, the Chairman may, after giving public notice of his intention to do so, and not less than one month after the publication of such notice, sell the interest of the said person or successor in such land by public auction, and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

1. The sub-heading and para, subst. by Ben. Act 6 of 1931.

2. Subst. by Ben. Act 2 of 1935.

4. Subst. By W. B. Act 32 of 1955.

79A. Board to appoint persons for enforcement of processes for recovery of dues :-

¹-The Board may direct by what authority any powers or duties incident under ² [the Calcutta Municipal Act, 1951], to the enforcement of any process for the recovery of the consolidated rate shall be exercised and performed when that process is employed under section 79.

1. Sec. 79A inst. by Ben. Act 8 of 1931.
2. Subst. By W. B. Act 32 of 1955.

80. Agreement or payment not to Bar Acquisition under a fresh declaration :-

¹ If any land, in respect of which an agreement has been executed or a payment has been accepted in pursuance of sub-section (4) of section 78, or in respect of which the payment of a betterment fee has been accepted in pursuance of sub-section (3) of section 78B, or has been made after its determination under section 78C, or in respect of which an agreement for such payment has been executed under section 78G, be subsequently required for any of the purposes of this Act, the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894.

1. Sub-heading and sec. 80 subst. by Ben. Act 8 of 1931.

81. Power to dispose of land :-

(1) The Board may retain, or may let on hire, lease, sell, exchange or otherwise dispose of, any land vested in or acquired by them under this Act,

(2) Whenever the Board decide to lease or sell any land acquired by them under this Act from any person, they

(a) shall give notice by advertisement in local newspapers, and

(b) shall offer to the said person, or his heirs, executors or administrators, a prior right to take on lease or to purchase such land, at a rate to be fixed by the Board, if the Board consider that such a right can be given without [prejudice to public interest or] detriment to the carrying out of the purposes of this Act.

(3) If in any case two or more persons claim to exercise a right offered under clause (b) to take on lease or to purchase any land,

the right shall be exercisable by the person who agrees to pay the higherst sum for the land, not being less then the rate fixed by the Board under that clause, to the exclusion of the others.

¹(4) Notwithstanding anything contained in sub-sections (2) and (3) or in any other provision of this Act when the Calcutta Metropolitan Development Authority constituted under the Calcutta Metropolitan Development Authority Act, 1972 (hereinafter referred to as the Authority), or the West Bengal Housing Board constituted under the West Bengal Housing Board Act, 1972 (hereinafter referred to as the Housing Board), requires any land vested in or acquired by the Board under this Act, for carrying out any of the purposes of the Act under which the Authority or the Housing Board, as the case may be, was constituted, the Authority or the Housing Board, as the case may be, may ask the Board to let on hire, lease, sell, exchange or otherwise dispose of such land to itself and the Board shall comply with such demand and forthwith transfer possession of such land in favour of the Authority or the Housing Board.

² (5) The amount of consideration at which any land shall be let on hire, leased, sold, exchanged or otherwise disposed of under sub-section (4) shall be such as may be agreed upon between the Authority or the Housing Board, as the case may be, and the Board and if they fail to reach an agreement the parties or any of them shall refer the matter to the State Government and the decision of the State Government thereon shall be final.

1. Sub-sec. (4) inst. by W. B. Act 13 of 1975.
2. Sub-sec. (5) Inst. by W. B. Act 13 of 1975.

CHAPTER 5

Taxation

82. Duty on certain transfers of immovable property :-

1

(1) The duty imposed by the Indian Stamp Act, 1899, on instruments of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of instruments affecting immovable property situated in the Calcutta Municipality and executed on or after the commencement of this Act² be increased by two per centum on the value of the property so situated, or (in the case of an usufructuary mortgage) on the amount secured by the instrument, as set forth in the instrument.

(2) For the purposes of this section, section 27 of the said Indian Stamp Act, 1899, shall be read as if it specifically required the particulars referred to therein to be set forth separately in respect of

(a) property situated in the Calcutta Municipality, and

(b) property situated outside the Calcutta Municipality, respectively.

(3) For the purposes of this section, section 64 of the said Indian Stamp Act, 1899, shall be read as if it referred to the Board as well as the Government.

(4) All collections resulting from the said increase shall, after deducting incidental expenses (if any), be paid to the Board at such time as may be prescribed by rule made under section 86.

1. Section 82 extended to E. B. by Ben. Act 1 of 1914.

2. See Notification no. 1148. dated the 30.10.1911.

83. Terminal Tax on passengers by Railway or Inland Steam-Vessel :-

(1) Every passenger brought to or taken from any station in the Calcutta Municipality or the Howrah Municipality by railway, and every passenger brought to or taken from any landing place in the port of Calcutta, within ¹[eight kilometers] from Government House, by inland steam-vessel, ²[three naye paise] in respect of each journey so made by him:

Provided as follows:

(a) the said tax shall not be payable by any passenger brought from, or taken to, any place situated within a radius of ²[forty-eight kilometers] from Government House;

(b) the ⁴[State Government] may, by notification, either

(i) ⁵* * * reduce the said radius to any distance less than [forty-eight kilometers], in its application either to passengers generally or to passengers of any specified class, or

(ii) ⁴* * *cancel proviso (a), or

(iii) reduce the said tax to any lower rate, either in respect of passengers generally or in respect of passengers making frequent

journeys;

(c) the said tax may, in the case of passengers taking suburban season tickets, be calculated at the rate of ²[thirty-seven naya paise] per mensem for each such ticket, or at such lower rate as the ⁸[State Government] may prescribe by notification,

(2) The said tax shall be collected by means of a surcharge on fares, by the administration of the railway, or the owner of the vessel, by which the passengers are carried, and shall be paid to the Board at such time as may be prescribed by rule made under section 86, after making such deduction as the ⁵[State Government] may approve to meet any expenses incurred in connection with the collection of the tax.

(3) The owner of every inland steam-vessel referred to in sub-section (1) shall prepare and deliver, or cause to be prepared and delivered, to the Chairman, each quarter, a return in the form prescribed by rule made under section 86, of all passengers, carried by such vessel, by whom the tax imposed by that sub-section is payable; and shall subscribe, at the foot of such return, a declaration of the truth thereof.

(4) Every such return shall -be delivered to the Chairman or posted to his address within fifteen working days, or at most within thirty days, after the end of the quarter to which it relates.

Explanation. The expression "working day" as used in this sub-section, means every day except a public holiday as defined in section 25 of the Negotiable Instruments Act, 1881.

(5) If this Act is directed to come into force during a quarter, the first of the said returns shall be made for the unexpired portion of that quarter.

(6) The expression "administration" and the expressions "owner" and "inland steam-vessel" as used in this section, have the same meanings as in the Indian Railways Act, 1890, and the Indian Steam-vessels Act, ¹⁰[1917], respectively.

¹¹(7) After the commencement of ¹²[the Constitution], a tax on passengers by railway shall only be leviable under this section if it ⁸[was lawfully levied] immediately before that date, and shall only be leviable until provision to the contrary is made by ⁸[Parliament].

1. Subst. by W. B. Act 20 of 1961.
2. Subst. by W. B. Act 20 of 1961,
4. Subst. by the Adaptation of Laws Order, 1950.
5. Words omitted by Act 38 of 1920.
8. Subst. by the Adaptation of Laws Order, 1950.
10. Figures subst. by Ben. Act 1 of 1939.
11. Sub-sec. (7) inst. by the Government of India (Adaptation of Indian Laws) Order. 1937.
12. Words subst. by the Adaptation of Laws Order. 1950.

84. Customs duty on exports of jute from Calcutta by sea :-

(1) A customs duty shall be levied and collected on all jute exported by sea from the Port of Calcutta to any other port, whether beyond or within India, at such rate, not exceeding,

(a) in the case of raw jute (including jute cuttings and rejections),
¹[twelve naye paise per bale of one hundred and eighty kilograms],
 and

(b) in the case of manufactured jute, ²[seventy-five naye paise per metric tonne of one thousand kilograms],

²[State Government] may prescribe by notification:

Provided that the said duty shall not be levied or collected in respect of jute, whether raw or manufactured, exported under any contract which was made before the fifteenth day of August, 1911, and the existence of which was established to the satisfaction of the Customs Collector before the fifteenth day of September, 1911.

(2) At the close of each quarter, or as soon thereafter as may be convenient, the duty collected under sub-section (1) shall, after deducting the expenses of collection (if any), be paid by the Customs Collector to the Board.

⁴(3) After the commencement of ⁵[the Constitution] a duty shall only be leviable under this section if it ⁴[was lawfully levied] immediately before that date, and shall only be leviable until provision to the contrary is made by ⁴ [Parliament],

1. Subst. by W. B. Act 20 of 1961.
2. Words subst. by the Adaptation of Laws Order. 1950.
4. Sub-sec. (3) inst. by the Government of India (Adaptation of Indian Laws) Order. 1937.
5. Words subst. by the Adaptation of Laws Order, 1950.

85. Section 5 of the Indian Tariff Act, 1934, not to apply to

jute :-

Section 5 of the Indian Tariff Act, ¹ [1934], shall not apply to jute (whether raw or manufactured) passing by land out of Calcutta.

1. Figures subst. by Ben. Act 1 of 1939.

86. Power to State Government to make rules :-

1

(1) The ²[State Government] may make rules for carrying out the purposes of this chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, the ² [State Government] may make rules

(a) for regulating the collection of taxes imposed by this chapter, and the payment therefor to the Board;

(b) for prescribing the form of the return required by section 83, sub-section (3), and the particulars to be contained therein, and the manner in which the same is to be verified.

1. Section 86 extended to E.B. by Ben. Act. 1 of 1914

2. words sust. by the adaptation of laws orders, 1950

86A. Power to State Government to issue directions :-

1 The State Government may, for the efficient administration of this Act or for such other reasons as it thinks fit, issue, from time to time, directions, not inconsistent with the provisions of this Act, to the Board and the Board shall carry out such directions.

1. section 86a inst. by. W. B. Act 42 of 1983.

87. Punishment for offences :-

The offences mentioned in column 1 of the following table shall be punishable to the extent mentioned in column 2 thereof with reference to such offences, respectively:

CHAPTER 6

Finance

88. [(Contributions from Municipal Funds) :-

Omitted by W.B. Act 42 of 1983.] Loans.

89. Power of Board to borrow money :-

The Board may from time to time borrow, at such rate of interest, and for such period, and upon such terms, as to the time and method of repayment and otherwise, as the [State Government] may approve, any sum necessary for the purpose of

(a) meeting expenditure debitable to the capital account under section 123, or

(b) repaying any loan previously taken under this Act. ¹ [* * * *]

1. Proviso omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

90. . :-

(Manner and tune of borrowing money). Rep. by Act 38 of 1920.

91. Loans from Banks :-

Whenever the borrowing of any sum has been approved under section 89, the Board may, instead of borrowing such sum or any part thereof from the public, ¹* * * take credit from any Bank, on a cash account to be kept in the name of the Board, to the extent of such sum or part; and, with the previous sanction of the ² [State Government] may grant mortgages of all or any property vested in the Board by way of securing the payment of the amount of such credit or of the sums from time to time advanced on such account with interest.

1. Words and figures repealed by Ben. Act 1 of 1939.

2. Words subst. by the Adaptation of Laws Order. 1950.

92. Diversion of borrowed money to purposes other than those first approved :-

When any sum of money has been borrowed under section 89 or section 91 for the purpose of meeting particular expenditure or repaying a particular loan, no portion thereof shall be applied to any other purpose without the previous sanction of the ¹ [State Government],

1. Words subst. by the Adaptation of Laws Order. 1950.

93. Form signature, exchange, transfer and effect of debentures :-

(1) Whenever money is borrowed by the Board on debentures, the debentures shall be in such form as the Board, with the previous sanction of the ¹ [State Government], may from time to time determine.

(2) All debentures shall be signed by the Chairman and one other Trustee.

(3) The holder of any debenture in any form prescribed under subsection (1) may obtain in exchange therefor, upon such terms as the Board may from time to time determine, a debenture in any other form so prescribed.

(4) Every debenture issued by the Board shall be transferable by endorsement, unless some other mode of transfer be prescribed therein.

(5) The right to sue in respect of moneys secured by debentures issued by the Board shall vest in the respective holders of the debentures for the time being, without any preference by reason of some of such debentures being prior in date to others.

Provided that nothing in the section shall affect any claim by the representative of a deceased person against such survivor or survivors.

1. Words subst. by the Adaptation of Laws Order. 1950.

94. Signature of coupons attached to debentures :-

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

95. Payments to survivors of joint payees :-

When any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything in section 45 of the Indian Contract Act, 1872, the debenture or security shall be payable to the survivor or survivors of such persons:

96. Receipt by joint holder for interest of dividend :-

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

97. Priority of payments for interest and repayment of loans :-

All payments due from the Board for interest on, or the repayment of, loans, shall be made in priority to all other payments due from the Board.

98. Repayment of loans taken under section 89 :-

Every loan taken by the Board under section 89 shall be repaid within the period approved by the ¹ [State Government] under that section, and, subject, to the provisions of section 125, sub-section (2), by such of the following methods as may be so approved, namely:

(a) from a sinking fund established under section 99 in respect of the loan, or

(b) by paying equal yearly or half-yearly instalments of principal, or of principal and interest, throughout the said period, or

(c) if the Board have, before borrowing money on debentures, reserved, by public notice, a power to pay off the loan by periodical instalments and to select by lot the particular debentures to be discharged at particular periods then by paying such instalments at such periods, or

(d) from money borrowed for the purpose under section 89, clause (b), or

(e) partly from the sinking fund established under section 99 in respect of the loan, and partly from money borrowed for the purpose under section 89, clause (b).

1. Words subst. by the Adaptation of Laws Order, 1950.

99. Establishment and maintenance of sinking funds :-

(1) Whenever the ¹[State Government] have approved the repayment of a loan from a sinking fund the Board shall establish such a fund and shall pay into it in every year, until the loan is repaid, a sum so calculated that, if regularly paid throughout the period approved by the [State Government] under section 89, it would, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the loan at the end of that period.

(2) The rate of interest on the basis of which the sum referred to in sub-section (1) shall be calculated shall be such as may be prescribed by the ¹ [State Government].

1. Subst. by the Adaptation of Laws Order, 1960.

100. Power to discontinue payments into sinking fund :-

Notwithstanding anything contained in section 99 if at any time the sum standing at credit of the sinking fund established for the

repayment of any loan, is of such amount that, if allowed to accumulate at the rate of interest prescribed under sub-section (2) of that section, it will be sufficient to repay the loan at the end of the period approved by the ¹[State Government] under section 89, then with the permission of the ¹ [State Government] further annual payments into such fund may be discontinued.

1. Subst. by the Adaptation of Laws Order, 1960.

101. Investment of sinking funds :-

(1) All money paid into any sinking fund shall as soon as possible be invested, under the orders of the Board, in

(a) Government securities, or

(b) securities guaranteed ¹[b y the Central or any State Government],or

(c) Calcutta Municipal debentures, or

(d) debentures issued by the Commissioners for the Port of Calcutta,or

(e) debentures issued by the Board,

²[West Bengallin the Financial Department and the Accountant General of ² [West Bengal], to be held by them as trustees for the purpose of repaying from time to time the debentures issued by Board.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the

(3) Any investment made under this section may from time to time subject to the provisions of sub-section (1), be varied or transposed.

1. Words subst. by the Government of India (Adaptation of India Laws) Order. 1937 and the Adaptation of Laws Order. 1950, respectively.

2. Words subst. by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order. 1948.

102. Application of sinking funds :-

The aforesaid trustees may from time to time apply any sinking fund, or any part thereof, in or towards the discharge of the loan or any part of the loan for which such fund was established; and until such loan is wholly discharged shall not apply the same for any

other purpose.

103. Annual statements by trustees :-

(1) The aforesaid trustees shall, at the end of every financial year, transmit to the Chairman a statement showing

(a) the amount which has been invested during the year under section 101,

(b) the date of the last investment made previous to the transmission of the statement,

(c) the aggregate amount of the securities held by them,

(d) the aggregate amount which has, up to the date of the statement, been applied under section 102 in or towards repaying loans, and

(e) the aggregate amount already paid into each sinking fund.

(2) Every such statement shall be laid before the Board and published by notification.

104. Annual examination of sinking funds :-

(1) The said sinking funds shall be subject to annual examination by the Accountant-General, ¹[West Bengali who shall ascertain whether the cash and the current value of the securities at credit of such funds are actually equal to the amount which would have accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The Board shall forthwith pay into any sinking fund any amount which the Accountant-General may certify to be deficient, unless t h e ²[State Government] specially sanction a gradual readjustment:

³ Provided that if the current value of the securities in all the sinking funds together is equal to the amount mentioned in sub-section (1), the deficit in any particular sinking fund shall not be certified by the Accountant-General.

1. Words subst. by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order. 1948.

2. Words subst. by the Adaptation of Laws Order. 1950.

3. Proviso inst. by W. B. Act 32 of 1955.

105. Procedure if Board fail to make any payment or

investment in respect of loans :-

(1) If the Board fail

(a) to pay any interest due in respect of any loan taken in pursuance of section 89, or

(b) to make any payment prescribed by section 98, section 99 or subsection (2) of section 104, or

(c) to make any investment prescribed by section 101,

¹[West Bengal] shall make such payment or set aside and invest such sum as ought to have been invested under the said section 101, as the case may be; and the ²[Commissioner of the Corporation] shall forthwith pay from the Municipal Fund to the said Accountant-General a sum equivalent to the sum so paid or invested by him; and the ³[State Government] may attach the rents and other income of the Board; and thereupon the provisions of [sub-section (2) of section 152 of the Calcutta Municipal Act, 1951], shall, with all necessary modifications, be deemed to apply.

(2) Whenever the ²[Commissioner of the Corporation] has made any payment to the Accountant-General under sub-section (1), the ³[State Government] shall reimburse the Corporation out of the rents and income attached under that sub-section, and if such rents and income prove insufficient for that purpose the Corporation may, with the previous sanction of the ³[State Government] increase the maximum authorized by ⁷ [section 165 of the Calcutta Municipal Act, 1951], to such extent as may be necessary for the purpose of making up the deficiency :

Provided that no such increase shall be made, unless the taxes imposed by sections 83 and 84 are levied at the maximum rates respectively prescribed by those section.

1. Words subst. by the Indian Independence (Adaptation of Bengal and Punjab Acts) Order. 1948.

2. Subst. by Ben. Act 1 of 1939 and W. B. Act 32 of 1955. respectively.

3. Words subst. by the Adaptation of Laws Order. 1950.

7. Subst. by W. B. Act 32 of 1955.

106. Procedure if Chairman of Corporation fails to make any payment due to Board or Accountant General :-

If the ¹[Commissioner of the Corporation] fails to make any payment as required by section 88 or section 105, the ²[State

Government] may attach the Municipal Funds or any of them; and thereupon the provisions of ³[sub-section (2) of section 152 of the Calcutta Municipal Act, 1951] shall, with all necessary modifications, be deemed to apply, and the ⁴[State Government] may further required the Corporation to increase the maximum authorized by ⁵[section 165 of that Act], to such extent as may be necessary for the purpose of making such payment:

Provided that no such increase shall be made; in consequence of any failure of the ⁵ [Commissioner of the Corporation] to make any payment as required by section 105, unless the taxes imposed by sections 83 and 84 are levied at the maximum rates respectively prescribed by those section.

1. Subst. by W. B. Act 32 of 1955.
2. Words subst. by the Adaptation of Laws Order. 1950.
3. Subst by Ben. Act 1 of 1939 and W. B. Act 32 of 1955. respectively.
4. Subst. by the Adaptation Laws Order. 1950.
5. Words subst. by Ben. Act 1 of 1939 and W. B. Act 32 of 1955. respectively.

107. Payments under section 105 to be a charge on the property of the Board :-

All moneys paid by the ¹[Commissioner of the Corporation] under sub-section (1) of section 105 and not reimbursed by the ² [State Government] under sub-section (2) of the section, and all moneys payable under sub-section (1) of section 105 and levied under section 106, shall constitute a charge upon the property upon the property of the Board.

1. Words subst. by Ben. Act 1 of 1939 and W. B. Act 32 of 1955. respectively.
2. Subst. by the Adaptation Laws Order. 1950.

108. Estimates of income and expenditure to be laid annually before the Board :-

(1) The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and expenditure of the Board for the next ensuing financial year.

(2) Every such estimate shall make provision for the due fulfilment of all the liabilities of the Board and for the efficient administration of this Act.

(3) Every such estimate shall differentiate capital and revenue funds, and shall be prepared in such form, and shall contain such details, as the ¹ [State Government] or the Board may from time to time direct.

(4) Every such estimate shall be completed and printed, and a copy thereof sent, by post or otherwise to each Trustee, at least ten clear days before the date of the meeting at which the estimate is to be laid before the Board.

1. Subst. by the Adaptation Laws Order. 1950.

109. Sanction of Board to estimates :-

The Board shall consider every estimate so laid before them, and shall sanction the same, either without alteration or with such alterations as they may think fit.

110. Approval of State Government to estimates :-

(1) Every such estimate, as sanctioned by the Board, shall be submitted to the ¹[State

(a) approve the estimate, or

(b) disallow the estimate or any portion thereof, and return the estimate to the Board for amendment.

(2) If any estimate is so returned to the Board, they shall forthwith proceed to amend it, and shall re-submit the estimate, as amended, to the ² [State Government], who may then approve it.

1. Subst. by the Adaptation Laws Order. 1950.

2. Words subf. by the Adaptation of Laws Order. 1950.

111. Transmission of copy of estimate to Commissioner of Corporation :-

A copy of every such estimate shall, when approved by the ¹[State Government], be sent by the Board to the ² [Commissioner of the Corporation].

1. Words subf. by the Adaptation of Laws Order. 1950.

2. Words subst. by Ben. Act 1 of 1939 and W. B. Act 32 of 1955. respectively.

112. Special provisions as to the first estimate after the constitution of the Board :-

(1) A special meeting of the Board be held as soon as may be

expedient after the day appointed under section 17, sub-section (1), and the Chairman shall at such special meeting lay before the Board an estimate of the income and expenditure of the Board for the portion of the financial year which on the said day had not expired.

(2) The provisions of section 108, sub-sections (2) to (4), and sections 109 to 111 shall apply to the said estimate.

113. Supplementary estimates :-

(1) The Board may, at any time during the year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and laid before them at a special meeting.

(2) The provisions of section 108, sub-sections (3) and (4) and sections 109 and 111 shall apply to every supplementary estimate.

114. Adherence to estimate, and maintenance of closing balance :-

(1) No sum shall be expended by or on behalf of the Board unless the expenditure of the same is covered by a current budget-grant or can be met by re-appropriation or by drawing on the closing balance.

(2) The closing balance shall not be reduced below one lakh of rupee without the previous sanction of the ¹[State Government].

(3) The following items shall be excepted from the provisions of subsections (1) and (2), namely:

(a) re-payments of moneys belonging to contractors, or other persons and held in deposit, and of moneys collected by, or credited to, the Board by mistake ;

(b) payments due under a decree or order of a Court passed against the Board or against the Chairman ex-officio, or under an award of the Tribunal;

(c) sums payable under a compromise of any suit or other legal proceeding or claim effected under section 154;

(d) sums payable under this Act by way of compensation; and

(e) payments required to meet some pressing emergency.

(4) Whenever any sum exceeding five thousand rupees is expended

under clause (e) of sub-section (3), the Chairman shall forthwith report the circumstances to the ² [State Government], and shall at the same time explain how the Board propose to cover the expenditure.

1. Words subsf. by the Adaptation of Laws Order. 1950.
2. Words subst. by the Adaptation of Laws Order. 1950.

115. Receipt of moneys, and deposit in imperial Bank of India :-

All money payable to the Board shall be received by the Chairman, and shall forthwith be paid into the ¹[Imperial Bank of India] ² [or any other bank approved by the Board with the sanction of the State Government] to the credit of an account which shall be styled, "The Account of the Trustee for the Improvement of Calcutta."

1. Words subst. by Ben. Act 1 of 1939.
2. Words inst. by W. B. Act 32 of 1955.

116. Investment of surplus money :-

(1) Surplus moneys at the credit of the said account may from time to time be

(a) deposited at interest in the ¹[ImperiaI Bank of India] or in any other Bank ² * * * * approved by the [State Government] in this behalf, or

(b) invested in any of the securities or debentures mentioned in section 101, sub-section (1), of this Act or in section 20 of the Indian Trusts Act, 1882.

(2) All such deposits and investments shall be made by the Chairman on behalf of, and with the sanction of, the Board; and, with the like sanction, the Chairman may at any time withdraw any deposit so made, or dispose of any securities, and re-deposit or re-invest the money so withdrawn or the proceeds of the disposal of such securities.

1. Words subst. by Ben. Act 1 of 1939.
2. Words omitted by W. B. Act 32 of 1955.

117. Payment by cheque :-

(1) No payment shall be made by the ¹[Imperial Bank of India] ² [or other bank referred to in section 115] out of the account

referred to in section 115, except upon a cheque.

(2) Payment of any such due by the Board exceeding one hundred rupees in amount shall be made by means of a cheque, and not in any other way.

1. Words subst. by Ben. Act 1 of 1939.

2. Words and figures inst. by W.B. Act 32 of 1955.

118. Signature of orders and cheques :-

1

(1) All orders for making any deposit, investment, withdrawal or disposal under section 116, and all cheques referred to in section 117, for any amount not exceeding rupees four lakhs shall be signed

(a) by the Financial Adviser and Chief Accounts Officer and the Personal Officer of the Board, or

(b) in event of illness or for occasional absence from Calcutta of the Financial Adviser and Chief Accounts Officer or the Personnel Officer, by the Personnel Officer or the Financial Adviser and Chief Accounts Officer, as the case may be and by the Secretary to the Board.

(2) All orders for making any deposit, investment, withdrawal or disposal under section 116, and all cheques referred to in section 117, for any amount exceeding rupees four lakhs shall be signed

(a) by the Chairman and the Secretary to the Board, or

(b) in the event of illness or for occasional absence from Calcutta of the Chairman or the Secretary to the Board, by the Secretary to the Board or the Chairman, as the case may be and by the Financial Adviser and Chief Accounts Officer of the Board.

Explanation: "Financial Adviser and Chief Accounts Officer" and "Personnel Officer" shall mean respectively the Financial Adviser and Chief Accounts Officer and the Personnel Officer appointed under this Act and the rules made thereunder.

1. Sec. 18 subst. by W. B. Act 42 of 1983.

119. Duty of Chairman and others before signing cheque :-

Before the Chairman ¹ [or the Secretary to the Board or the Financial Adviser and Chief Accounts Officer of the Board or the Personnel Officer of the Board] signs a cheque under section 118,

he must satisfy himself that the sum for which such cheque is drawn either is required for a purpose or work specifically sanctioned by the Board or is an item of one of the excepted descriptions specified in section 114, sub-section (3).

1. Words subst. by W. B. Act 42 of 1983.

120. Definition of "cost of management." :-

(1) The expression "cost of management," as used in the following sections in this Chapter, means

(a) the salary and house-rent and conveyance allowance (if any) of the Chairman or acting Chairman, and the allowances and contributions referred to in section 11, sub-section (2);

(b) all fees paid under section 22, for attendance at meetings;

(c) the salaries, fees and allowances of, and the contributions paid under section 146 in respect of, officers and servants of the Board who are included in statements prepared under section 30;

(d) the remuneration of other employees of the Board, except employees who are paid by the day or whose pay is charged to temporary work;

(e) all payments made under section 75 and section 146 on account of the Tribunal; and

(f) all office expenses incurred by the Board or the Tribunal.

(2) The expression "office expenses", in clause (f), means expenses incurred for carrying on office work, and includes the rent of offices, the provision of furniture therefor, ¹ [the purchase of books and charges for printing, photographing, preparing models and stationery].

1. Words subst. and words omitted by W. B. Act 32 of 1955.

121. Keeping capital account and revenue account :-

(1) The Board shall keep a capital account and a revenue account.

(2) The capital account shall show separately all expenditure incurred by the Board on each improvement scheme ¹ * * * *.

1. Words subst. and words omitted by W. B. Act 32 of 1955.

122. Credits to capital account :-

There shall be credited to the capital account

¹(a) all sums (except interest) received by way of special payments for betterment fees in pursuance of section 78, 78A or 79;

(b) all moneys received on account of loans taken by the Board in pursuance of section 89 or section 91;

(c) the proceeds of the sale of any land vested in the Board ⁹⁶* *
²* * * * *

(e) the proceeds of the sale of any movable property (including securities for money invested from the capital account) belonging to the Board;

(f) all lump sums received from ³[any Government] in aid of the capital account;

(g) all premia received by the Board in connection with leases ⁴*****

(h) all sums (if any) which the ⁵[State Government] directs, under section 125, sub-section (2), to be credited to the capital account; and

(i) all moneys resulting from the sale of securities by direction of the ⁵ [State Government] under section 126.

1. Clause (a) subst. by Ben. Act 8 of 1931.

2. Words and clause (d) omitted by W. b. Act 32 of 1955.

3. Words subst. by the Government of India (Adaptation of Indian Laws) Order. 1937.

4. Words omitted by W. B. Act 32 of 1955.

5. Words subst. by the Adaptation of Laws Order. 1950.

123. Application of capital account :-

The moneys credited to the capital account shall be held by the Board in trust, and shall be applied to

(a) meeting all costs of framing and executing improvement schemes ¹* * * *

(b) meeting the cost of acquiring land for carrying out any of the purposes of this Act;

(c) meeting the cost of constructing buildings required for carrying out any of the purposes of this Act;

(d) the repayment of loans from money borrowed in pursuance of section 89, clause (b);

(e) making payments in pursuance of section 149, otherwise than for interest or for expenses of maintenance or working;

(f) making, or contributing towards the cost of making, surveys, in pursuance of section 167;

(g) meeting such proportion of the cost of management as the Board may, with the sanction of the ² [State Government], prescribe in this behalf; and

(h) temporarily making good the deficit (if any) in the revenue account at the end of any financial year.

1. Words omitted by W. B. Act 32 of 1955.

2. Words subst. by the Adaptation of Laws Order, 1950.

124. Credits to revenue account :-

There shall be credited to the revenue account

(a) all interest received in pursuance of ¹[sections 78, 78G or 79;

(b) all proceeds received by the Board of taxes imposed by Chapter V;

(c) all sums contributed from Municipal Funds which are received by the Board under section 88;

(d) all ²* * * damages ²* * * * received by the Board under section ²[162];

(e) all annually recurring sums received from the Government in aid of the funds of the Board;

⁵ (f) all receipts from lease of playgrounds, swimming pools, athletic tracks and stadiums and from sale of tickets for admission thereto;

(g) all rents of land vested in the Board; and

(h) all other receipts by the Board which are not required by section 122 to be credited to the capital account.

1. Subst. by Ben. Act 8 of 1931.

2. Words omitted and figures subst. by this Government of India (Adaptation of Indian Laws) Order. 1937.

5. Clause (f) subst. by W. B. Act 32 of 1955.

125. Application of revenue account :-

(1) The moneys credited to the revenue account shall be held by the Board in trust, and shall be applied to

(a) meeting all charges for interest and sinking fund due on account of any loan taken in pursuance of section 89, clause (a), or section 91, and all other charges incurred in connection with such loans;

(b) paying all sums due from the Board in respect of rates and taxes imposed under ¹[the Calcutta Municipal Act, 1951], upon land vested in the Board;

(c) paying the cost (if any) of maintaining a separate establishment for the collection of the rents and other proceeds of land vested in the Board;

¹(ci) paying of cost of holding or participating in conferences or exhibitions relating to urban improvements;

³(cc) paying the fees prescribed for arbitrators under section 78D;

(d) paying all sums which the ⁴[State Government] may direct to be paid to any auditor under section 132 ;

(e) making payments in pursuance of section 149, for interest or for expenses of maintenance or working;

(f) paying the cost of management, excluding such proportion thereof as may be debited to the capital account under clause (g) of section 123; and

(g) paying all other sums due from the Board, other than those which are required by section 123 to be disbursed from the capital account.

(2) The surplus (if any) remaining after making the payments referred to in sub-section (1) shall, subject to the maintenance of a closing balance of one lakh of rupees, and ⁵[unless contributed permanently to the capital 'account under the direction of he State Government or advanced to the capital account under the provisions of section 127], and unless the ³ [State Government], other directs,

1. Clause (ci) subst. by W. B. Act 32 of 1955.

3. Clause (cc) subst. by Ben. Act 8 of 1931.

4. Words subst. by the Adaptation of Laws Order, 1950.

5. Subst. by W. B. Act 32 of 1955.

126. Power to direct sale of securities in which any surplus of the revenue account is invested :-

If, any time after any surplus referred to in section 125, sub-section (2), has been invested, the ¹ [State Government] is satisfied that the investment is not needed for the service of any loan referred to in that sub-section, it may direct the sale of the securities held under the investment.

1. Words subst. by the Adaptation of Laws Order, 1950.

127. Advances from revenue account to capital account :-

(1) Notwithstanding anything contained in section 125, the Board may advance any sum standing at the credit of the revenue account for the purpose of meeting capital expenditure.

(2) Every such advance ¹ [shall, unless a direction is given by the State Government under sub-section (2) of section 125, be refunded] to the revenue account as soon as may be practicable.

1. Subst. by W.B. Act 32 of 1955.

128. Advances from capital account to revenue account :-

(1) Any deficit in the revenue account at the end of any financial year may be made good by an advance from the capital account.

(2) Every such advance shall be refunded to the capital account in the following financial year.

129. Submission of abstracts of accounts to State Government :-

The Board shall submit to the ¹ [State Government], at the end of each half of every financial year, an abstract of the accounts of their receipts and expenditure.

1. Words subst. by the Adaptation of Laws Order, 1950.

130. Annual audit of accounts :-

The accounts of the Board shall, once in every financial year, be examined and audited by such auditor as the ¹ [State Government] may appoint in this behalf.

1. Words subst. by the Adaptation of Laws Order, 1950.

131. Powers of auditor :-

The auditor so appointed may,

(a) by written summons, require the production before him of any document which he may consider necessary for the proper conduct of the audit;

(b) by written summons require any person having the custody or control of, or being accountable for, any such document to appear in person before him; and

(c) require any person so appearing before him to make and sign a declaration with respect to any such document, to answer any question, or to prepare and submit any statement.

132. Remuneration of auditor :-

The Board shall pay to the said auditor such remuneration as the ¹ [State Government] may direct.

1. Words subst. by the Adaptation of Laws Order. 1950.

133. Reports and information to be furnished by auditor to the Board :-

The said auditor shall

(a) report to the Board any material impropriety or irregularity which he may observe in the expenditure, or in the recovery of moneys due to the Board, or in the accounts, and report the same to the ¹ [State Government],

(b) furnish to the Board such information as they may from time to time require concerning the progress of his audit, and

(c) within fourteen days after the completion of his audit, forward his report upon the accounts to the Chairman.

1. Words subst. by the Adaptation of Laws Order. 1950.

134. Board to remedy defects pointed out by auditor :-

It shall be the duty of the Board forthwith to remedy any defects or irregularities that may be pointed out by the auditor.

135. Auditors report to be sent to each Trustee and considered by Board :-

The Chairman shall cause the report mentioned in section 133, clause (c), to be printed and shall forward a printed copy thereof to each Trustee, and shall bring such report before the Board for consideration at their next meeting.

136. Publication and transmission of an abstract of the account :-

As soon as practicable after the receipt of the said report, the Board shall prepare an abstract of the accounts to which it relates, and shall publish such abstract by notification, and shall send a copy of the abstract to the ¹ [Commissioner of the Corporation] and to the [State Government].

1. Words subst. by Ben Act 1 of 1939 and W. B. Act 32 of 1955, respectively.

CHAPTER 7

Rules

137. Further powers to State Government for making rules :-

In addition to the power conferred by section 86, the ¹[State Government] may make rules

(1) for regulating elections under ²[clauses (c) and (d) of sub-section (1) of section 4];

(2) for prescribing the maximum sum which may be paid to any person by way of fees under section 22;

(3) for fixing the charge to be made for a copy of, or extracts from, the municipal assessment-book furnished to the Chairman under section 49; and

³ (3a) for determining the qualifications and disqualifications of, the conditions and mode of election, selection or appointment of, an arbitrator and for regulating the proceedings of arbitrators under section 78C;

(4) for prescribing the form of the abstracts of accounts referred to in sections 129 and 136.

1. Words subst. by the Adaptation of Laws Order. 1950.

2. Subst. by W. B. Act 32 of 1955.

3. Clause (3a) inst. by Ben. Act 8 of 1931.

138. Further powers to Board for making rules :-

(1) In addition to the power conferred by section 31, the Board may from time to time made rules (not inconsistent with any rules made by the ¹[State Government] or the President of the Tribunal under this Act) for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Board may make rules

(a) for associating members with the Board under section 19;

(b) for appointing persons (other than Trustees and persons associated with the Board under section 19) to be members of Committees under section 20;

(c) for regulating the delegation of powers or duties of the Board to Committees under section 20;

(d) for the guidance of persons employed by them under this Act;

(e) for prescribing the fees payable for copies of documents delivered under section 43, sub-section (3), ² [or clause (iv) of sub-section (2) of section 63];

(f) for facilitating the taking of a census and securing accurate returns thereof;

(g) for the maintenance and management of dwellings and shops constructed under re-housing schemes.

(3) In making any rule under sub-section (1) or sub-section (2), the Board may provide that a breach of it shall be punishable

(i) with fine which may extend to five hundred rupees, or

(ii) in case of a continuing breach, with fine which may extend to fifty rupees for every day during which the breach continues after receipt of written notice from the Chairman to discontinue the breach.

1. Words subst. by the Adaptation of Laws Order. 1950.

2. Inst. by Ben. Act 3 of 1915.

139. Conditions precedent to the making of rules under sections 86, 137 or 138 :-

The power to make rules under section 86, section 137 or section 138 is subject to the condition of the rules being made after previous publication, and to the following further conditions, namely,

(a) a draft of the rules shall be published by notification and in local newspapers;

(b) such draft shall not be further proceeded with until after the

expiration of a period of one month from such publication, or such longer period as the ¹ [State Government] or (in the case of rules made under section 138) the Board may appoint;

(c) for one month at least during such period, a printed copy of such draft shall be kept at the Board's office for public inspection, and every person shall be permitted at any reasonable time to peruse the same, free of charge;

(d) printed copies of such draft shall be delivered to any person requiring the same, on payment of a fee of two annas for each copy.

1. Words subst. by the Adaptation of Laws Order. 1950.

140. Sanction of State Government required to rules made under section 138 :-

No rule made under section 138 shall have any validity unless and until it is sanctioned, with or without modification, by the ¹ [State Government].

1. Words subst. by the Adaptation of Laws Order. 1950.

141. Publication of rules :-

When any rule has been made under section 86 or section 137, and when any rule has been made under section 138 and duly sanctioned, it shall be published by the ¹ [State Government] by notification, and such publication shall be conclusive proof that the rule has been duly made.

1. Words subst. by the Adaptation of Laws Order. 1950.

142. Printing and sale of copies of rules :-

(1) The Chairman shall cause all rules made under section 86, section 137 or section 138 and for the time being in force to be printed, and shall cause printed copies thereof to be delivered to any applicant on payment of a fee of ¹ [one rupee] for each copy.

(2) Notice of the fact of copies of rules being obtainable at the said price, and of the place where and the person from whom the same are

1. Words subst. by W. B. Act 42 of 1983.

143. Exhibition of copies of rules :-

Copies in English and Bengali, of all rules made under section 137 or section 138 shall be hung or affixed in some conspicuous part of

the Board's office and in such places of public resort affected by the rules as the Chairman may think fit.

144. Power of State Government to cancel rules made under section 138 :-

The ¹ [State Government] may at any time, by notification, cancel any rule made by the Board under section 138.

1. Words subst. by the Adaptation of Laws Order, 1950,

CHAPTER 8

Supplemental Provisions

145. Trustees, etc., deemed public servants :-

Every Trustee, and every officer and servant of the Board, and every member and officer and servant of the Tribunal, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Contributions towards leave-allowances and pensions of ¹ [servants of the Government].

1. Words subst. by Ben. Act 16 of 1946 and the Adaptation of Laws Order, 1950, respectively.

146. Contributions by Board towards leave-allowances and pensions of servants of the Government employed under this Act :-

The Board shall be liable to pay such contributions for the leave-allowances and pensions of any ¹[servant of the Government! employed as Chairman or as an officer or servant of the Board, as a member or officer or servant of the Tribunal, as may be ¹ [required, by the conditions of his service under the Government, to be paid by him or on his behalf.] Extension of Acts to areas in the neighbourhood of the Calcutta Municipality.

1. Subst. by the Government of India (Adaptation of Indian Laws) Order. 1937 and the Adaptation of Laws Order, 1950, respectively.

147. Power to extend the Calcutta Municipal Act, 1951, to areas, near Calcutta, to which provisions of the present Act have been extended :-

(1) When any provision of this Act has been extended to any area under section 1, sub-section (3), the ¹[State Government] may, by notification published in the ²[Official Gazette] and in such other manner ³[Calcutta Municipal Act, 1951], or any portion thereof, subject to such restrictions and modifications (if any) as may be

specified in such notification.

(2) When the said ³[Calcutta Municipal Act, 1951], or any portion thereof, is extended under sub-section (1) to any area, then-

(a) the Bengal Municipal Act ⁵[1932], or the Bengal Local Self-Government Act of 1885, as the case may be, or the corresponding portion of such Act, as the case may be, if in force in such area, shall be deemed to be repealed therein, and

(b) except as the ⁶[State Government] may otherwise, by notification, direct, all rules, by-laws, regulations, orders, directions and powers, made, issued or conferred under the portions of the said ³[Calcutta Municipal Act, 1951], which have been so extended and in force at the date of such extension, shall apply to the said area, in supersession of all corresponding rules, by-laws, regulations, orders, directions and powers (if any) made, issued or conferred under the said Bengal Municipal Act, ⁴ [1932], or the said Bengal Local Self-Government Act of 1885, as the case may be.

1. Words subst. by the Adaptation of Laws Order, 1950,

2. Subst. by the Government of India (Adaptation of Indian Laws) Order, 1937.

3. Subst. by W. B. Act 32 of 1955.

5. Figures subst. by Ben. Act 1 of 1939.

6. Subst. by the Adaptation of Laws Order. 1950.

148. Publication of notifications under sections 1(3) and 147(1) in draft, for criticism :-

(1) Before finally publishing any notification under section 1, sub-section (3), or section 147, sub-section (1), the ¹[State Government] shall publish a draft of the same in the ²[Official Gazette].

(2) Any ratepayer or inhabitant of the area affected by such draft may, if he objects to the draft, submit his objection in writing to the ¹[State Government] within six weeks from its publication, and the ¹ [State Government] shall take such objection into consideration.

1. Subst. by the Adaptation of Laws Order. 1950.

2. Subst. by the Government of India (Adaptation of Indian Laws) Order. 1937.

149. Powers of the Board for facilitating movement of the

population :-

With a view to facilitating the movement of the population in and around the Calcutta Municipality, the Board may from time to time,

(1) subject to any conditions they may think fit to impose,

(a) guarantee the payment, from the funds at their disposal, of such sums as they may think fit, by way of interest on capital expended on the construction, maintenance or working of means of locomotion; or

(b) make such payments as they may think fit from the said funds, by way of subsidy to persons undertaking to provide, maintain and work means of locomotion; or

(2) either singly or in combination, with any other person, construct, maintain and work any means of locomotion, under the provisions of any law applicable thereto, or

(3) construct, or widen, strengthen or otherwise improve, bridges:

Provided that no guarantee or subsidy shall be made under clause (1), and no means of locomotion shall be constructed, maintained or worked under clause (2), without the sanction of the ¹ [State Government].

1. Words subst. by the Adaptation of Laws Order. 1950.

150. Saving of Telegraph and Railways Acts :-

Nothing in this Act shall be deemed to affect the provisions of the Indian Telegraph Act, 1885, or the Indian Railways Act, 18.90.

151. Cognizance of offences :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences against this Act or any rule made hereunder shall wherever committed, be cognizable by a Presidency Magistrate; and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence by reason only of being liable to pay any tax imposed by this Act or of his being benefited by the funds to the credit of which any fine imposed by him will be payable.

152. Limitation of time for prosecution :-

No person shall be liable to punishment for any offence against this Act or any rule made hereunder unless complaint of such offence is made before [a Metropolitan Magistrate within three months next

after the detection of the commission of such offence].

153. Power to hear case in absence of accused when summoned to appear :-

If any person, who has been summoned to appear before a Presidency Magistrate to answer a charge of an offence against this Act or any rule made hereunder which is punishable with fine only, fails to appear at the time and place mentioned in the summons, the Magistrate may, if service of the summons is proved to his satisfaction, and if no sufficient cause is shown for the non-appearance of such person, hear and determine the case in his absence.

154. Powers of Chairman as to institution, etc., of legal proceedings and obtaining legal advice :-

The Chairman may, subject to the control of the Board,

(a) institute, defend or withdraw from, legal proceedings under this Act or any rule made hereunder;

(b) compound any offence against this Act or any rule made hereunder which, under any law for the time being in force, may lawfully be compounded;

(c) admit, compromise or withdraw any claim made under this Act or any rule made hereunder; and

(d) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Board to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or servant of the Board.

155. Indemnity to Board, etc :-

No suit shall be maintainable against the Board, or any Trustee, or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any officer or servant of the Board, in respect of anything lawfully and in good faith and with due care and attention done under this Act or any rule made hereunder.

156. Notice of suit against Board, etc :-

No suit shall be instituted against the Board, or any Trustee, or any officer or servant of the Board, or any person acting under the

direction of the Board or of the Chairman or of any officer or servant of the Board, in respect of any act purporting to be done under this Act or any rule made hereunder, until the expiration of one month next after written notice has been delivered or left at the Board's office or the place of abode of such officer, servant or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims; and the plaint must contain a statement that such notice has been so delivered or left.

157. Corporation of the Police :-

(1) The Commissioner of Police and his subordinates shall be bound to co-operate with the Chairman for carrying into effect and enforcing the provisions of this Act.

(2) It shall be the duty of every police-officer who is subordinate to the Commissioner of Police

(i) to communicate without delay to the proper officer or servant of the Board any information which he receives of a design to commit or of the commission of any offence against this Act or any rule made hereunder, and

(ii) to assist the Chairman or any officer or servant of the Board reasonably demanding his aid for the lawful exercise of any power vesting in the Chairman or in such officer or servant under this Act or any such rule.

158. Arrest of offenders :-

(1) Every police-officer shall arrest any person who commits, in his view, any offence against this Act or any rule made hereunder, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address, or gives a name or address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained, or without, the order of a Magistrate, for any longer time, not exceeding at the most twenty-four hours from the arrest, than is necessary for bringing him before a Magistrate,

(3) On the written application of the Chairman, any police-officer above the rank of constable shall arrest any person who obstructs

any officer or servant of the Board in the exercise of any of the powers conferred by this Act or any rule made hereunder.

159. Proof of consent, etc., of Board or Chairman or officer or servant of Board :-

Whenever, under this Act or any rule made hereunder, the doing or the omitting to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of

(a) the Board or the Chairman, or

(b) any officer or servant of the Board, a written document, signed, in case (a) by the Chairman, and in case (b) by the said officer or servant, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

160. Validation of acts and proceedings :-

(1) No act done or proceeding taken under this Act shall be questioned on the ground merely of

(a) the existence of any vacancy in, or any defect in the constitution of, the Board or any Committee; or

(b) any person having ceased to be a Trustee; or

(c) any Trustee, or any person associated with the Board under section 19, or any other member of a Committee appointed under this Act, having voted or taken any other part in any proceeding in contravention of section 23; or

(d) the failure to serve a notice under section 45 on any person, where no substantial injustice has resulted from such failure; or

(e) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Board, the minutes of the proceedings of which have been duly signed as prescribed in section 18, clause (h), shall be taken to have been duly convened and to be free from all defect and irregularity. Compensation.

161. General power of Board to pay compensation :-

In any case not otherwise expressly provided for in this Act, the

Board may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested, by this Act or any rule made or scheme sanctioned hereunder, in the Board or the Chairman or any officer or servant of the Board.

162. Compensation to be paid by offenders for damage caused by them :-

(1) If, on account of any act or omission, any person has been convicted of an offence against this Act or any rule made hereunder, and, by reason of the same act or omission of the said person, damage has occurred to any property of the Board, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Magistrate, as if it were a fine inflicted by him on the person liable therefor.

163. Public Notices how to be made known :-

Every public notice given under this Act or any rule made hereunder shall be in writing over the signature of the Chairman, and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in local newspapers, or by any two or more of these means, and by any other means that the Chairman may think fit.

164. Newspapers in which advertisements or notices to be published :-

Whenever it is provided by this Act or any rule made hereunder that notice shall be given by advertisement, in local newspapers, or that notification or any information shall be published in local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two English newspapers and two vernacular newspapers.

165. Stamping signature on notices or bills :-

Every notice or bill, which is required by this Act or by any rule made hereunder to bear the signature of the Chairman or of any other trustee or of any officer or servant of the Board, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman or of such other Trustee or of such officer or servant, as the case may be, stamped thereupon.

166. Service how to be effected :-

When any notice, bill or other document is required by this Act or any rule made hereunder to be served upon or issued or presented to any person, such service, issue or presentation shall be effected

- (a) by giving or tendering such document to such person; or
- (b) if such person is not found, by leaving such document at his last known place of abode in Calcutta, or by giving or tendering the same to some adult male member or servant of his family; or
- (c) if such person does not reside in Calcutta, and his address elsewhere is known to the Chairman, by forwarding such document to him by registered post under cover bearing the said address; or
- (d) if none of the means aforesaid be available, by causing a copy of such document to be affixed on some conspicuous part of the land (if any) to which the document relates.

167. Power to make surveys, or contribute towards their cost :-

The Board may

- (a) cause a survey of any land ¹ [or a civic or diagnostic survey of any area] to be made, whenever they consider that a survey is necessary or expedient for carrying out any of the purposes of this Act, or
- (b) contribute towards the cost of any such survey made by any other local authority.

1. Words inst. by W. B. Act 32 of 1955.

168. Power of Entry :-

(1) The Chairman ¹ [or any other officer of the Board authorised by him in this behalf] may, with or without assistants or workmen, enter into or upon any land, in order

- (a) to make any inspection, survey, measurement, valuation or inquiry,
- (b) to take levels,
- (c) to dig or bore into the sub-soil,
- (d) to set out boundaries and intended lines of work,
- (e) to mark such levels, boundaries and lines by placing marks, and cutting trenches, or
- (f) to do any other thing,

Provided as follows:

- (a) no such entry shall be made between sunset and sunrise;
- (b) no dwelling-house, and no public building or hut which is used as a dwelling-place, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty four hours' previous written notice of the intention to make such entry;
- (c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to
- (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose, for which the entry is made, to the social and religious usages of the occupants of the premises entered.

(2) Whenever the Chairman enters into or upon any land in pursuance of sub-section (1), he shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid; and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Board, whose decision shall be final.

1. Words inst. by W.B. Act 32 of 1955.

169. Punishment for acquiring share or interest in contract, etc., with the Board :-

If any Trustee, or any officer or servant of the Board knowingly acquires, directly or indirectly, by himself or by any partner, employer or employee, otherwise than as such Trustee, officer or servant, any share or interest in any contract or employment with,

by, or on behalf of, the Board, not being a share or interest such as, under sub-section (2) of section 9, it is permissible for a Trustee to have without being thereby disqualified for being appointed a Trustee, he shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.

170. Penalty for removing fence, etc., in street :-

If any person, without lawful authority,

(a) removes any fence or shoring-timber, or removes or extinguishes any light, set up under section 59, or

(b) infringes any order given, or removes any bar, chain or post fixed, under section 60, sub-section (2), he shall be punishable with fine which may extend to fifty rupees.

171. Penalty for Building within street alignment or building line of a projected public street :-

¹(1) ²[If any person, without the permission of the Chairman required by section 63, sub-section (8), erects, re-erects or adds to any wall (exceeding ten feet in height) or building which falls within the street alignment or building line of a projected public street shown ³[or a projected public park! in any plan sanctioned by the ⁴(State Government) under the said section], he shall be punishable

(a) with fine which may extend, in the case of a masonry building or a wall, to five hundred rupees, and, in the case of a hut, to fifty rupees, and

(b) with further fine which may extend, in the case of a masonry building or a wall, to one hundred rupees, in the case of a hut, to ten rupees for each day after the first during which the projection continues.

⁵ (2) In either case, the court may further direct that the erection, re- erection or addition shall be demolished forthwith.

1. Sec. 171 was renumbered as sub-sec 911 by W. B. Act 32 of 1955.

2. Subst. by Ben. Act 3 of 1915.

3. inst. by W. B. Act 42 of 1983.

4. Subst. by the Adaptation of Laws Order, 1950.

5. Sub-sec. (2} inst. by W. B. Act 32 of 1955.

171A. Penalty for failure to remove wall or building in

respect of which agreement has been executed :-

1 If the owner for the time being of any wall or building in respect of which an agreement has been executed as provided in section 63, sub-section (9), fails

(a) to remove such wall or building, or any specified portion thereof, when so required by notice issued under that sub-section, or

(b) within fifteen days from the receipt of such notice, to authorize the Chairman, by permission in writing, to remove the said wall, building or portion, he shall be punishable

(i) with fine which may extend, in the case of a masonry wall or building, to one hundred rupees, and, in the case of a hut, to twenty rupees; and

(ii) with further fine which may extend, in the case of a masonry wall or building, to ten rupees, and, in the case of a hut, to five rupees, for each day after the first during which the failure continues.

1. Section 171A inst. by Ben. Act 3 of 1915.

172. (Penalty for failure to set back building or wall on requisition) :-

Rep. by Ben. Act 3 of 19151.

173. Penalty for failure to comply with requisition made by Auditor :-

If any person fails to comply with any requisition made under section 131, he shall be punishable

(a) with fine which may extend to one hundred rupees; or

(b) in case of a continuing failure, with fine which may extend to fifty rupees for each day after the first during which the failure continues.

174. Penalty for obstructing contractor or removing mark :-

If any person

(a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the Board, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule made hereunder, or

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act or any rule made or scheme sanctioned hereunder, he shall be punishable with fine which may extend to two hundred rupees or with imprisonment for a term which may extend to two months.

174A. Removal of wall or building and recovery of expenses

:-

¹ When a written notice, issued under section 63, sub-section (9), for the removal of a wall or building, or any portion thereof, is not complied with by the owner thereof for the time being as provided in section 171A, the Chairman may proceed to remove such wall, building or portion and the expenses incurred in effecting such removal shall be recoverable by sale of the materials or other things removed.

1. The heading and sec. 174A inst. by Ben. Act 3 of 1915.

175. (Fines; damages and proceeds of confiscations to be paid to Board.) :-

Omitted by para 3 and Sch. IV to the Government of India (Adaptation of Indian Laws) Order, 1937.]

176. Suspension or abolition, and reimposition, of taxation or Municipal Contributions :-

(1) Whenever the ¹[State Government] considers that any duty or tax imposed by Chapter V, or any payment required by section 88, or any portion of any such duty, tax or payment, as the case may be, is not required for the purposes of this Act, it may, by notification, ²* * *

(a) suspend, for any specified period, the levy of such duty or tax or any specified portion thereof, or the making of such payment or any specified portion thereof, or

(b) abolish such duty, tax or payment, or any specified portion thereof, from a date to be specified in the notification.

(2) If at any-time the ¹ [State Government] considers that any duty, tax or payment, or any portion thereof, which has been suspended or * * * * cancel, such suspension or abolition, wholly or in part, as it may think fit, from a date to be specified in the notification.

1. Subst. by the Adaptation of Laws Order. 1950.

2. Words omitted by Act 38 of 1920.

177. Power of State Government to supersede the Board :-

1

(1) If in the opinion of the State Government it is necessary so to do with a view to better co-ordination and speedier execution of development work and maintenance thereof the State Government may, by an order published in the Official Gazette and mentioning therein the reason for the order, supersede the Board for such period as may be specified in the order.

(2) For the removal of doubts it is hereby declared that no notice whatsoever is required to be given to the Board for submission of any representation before making any such order of supersession under subsection (1).

(3) The State Government may, if it considers necessary so to do, by order, extend or modify from time to time the period of supersession.

1. Sec. 177 subst. by sch. to W. B. Act 11 of 1972.

177A. Consequences of supersession :-

1

(1) When an order of supersession has been made under section 177, then with effect from the date of the order

(a) all Trustees of the Board and all members or other persons constituting committees shall vacate their respective offices;

(b) all properties, funds and dues which are vested in or realisable by the Board and the Chairman, respectively, shall vest in and be realisable by the Calcutta Metropolitan Development Authority constituted under section 3 of the Calcutta Metropolitan Development Authority Act, 1972 (hereinafter referred to as the Metropolitan Authority);

(c) all contracts and liabilities which are enforceable by or against the Board shall be enforceable by or against the Metropolitan Authority;

(d) all the powers and duties which may, under the provisions of this or any other Act or any rule, regulation, bye-law, order or notification made thereunder, be exercised or performed by the Board, committee or the Chairman shall be exercised or performed

by the Metropolitan Authority;

(e) all legal proceedings instituted by or against the Board may be continued or enforced by or against the Metropolitan Authority;

(f) all officers and other employees of the board continuing in office immediately before the date of the order shall be deemed to be

(2) The State Government shall, before the expiration of the period of supersession, reconstitute the Board in accordance with the provisions of this Act.

(3) The State Government may make such incidental or consequential orders as may appear to it to be necessary for giving effect to the order made under sub-section (1) or (3) of section 177 or under sub-section (2) of this section.

1. Sec. 177A subst. by Sch. to W. B. Act 11 of 1972.

SCHEDULE 1

Further Modifications in the Land Acquisition Act, 1894.

1. Amendment of Section 3 :-

After clause (e) of section 3 the following shall be deemed to be inserted, namely ; "(e) the expression "local authority" includes the Board of Trustees constituted under the Calcutta Improvement Act, 1911."

1A. New Section 6A :-

After section 6. the following section shall be deemed to be inserted, namely :

"6A. Publication of Notification, Hearing of objections and declaration under the Calcutta Improvement Act to be substituted for those under sections 4, 5A and 6. When acquisition is proposed to be made of land comprised within any improvement scheme framed by the Board and published under section 49 of the Calcutta Improvement Act, 1911

(i) the publication of a notice of the improvement scheme under sub-section (2) of section 43 of the Calcutta Improvement Act, 1911, shall be substituted for and have the same effect as publication of a notification in the Official Gazette and giving public notice of the substance of such notification in the locality under section 4.

(ii) proceedings under section 45 and sub-section (1) "of section 47

of the Calcutta Improvement Act, 1911, shall be substituted for and have the same effect as proceedings under section 5A.

(iii) The publication of a notification under section 49 of the Calcutta Improvement Act, 1911, shall be substituted for and have the same effect as a declaration under section 6."

1B. . :-

In section 11, before the words "make an award under his hand" the words "after considering such evidence as may be adduced by the Board under sub-section (2) of section 50" shall be inserted.

2. . :-

Rep. by Ben. Act 1 of 1922.

3. Amendment of section 15 :-

In section 15, for the word and figures "and 24" the figures, word and letter "24 and 24A" shall be deemed to be substituted.

4. Amendment of section 17 :-

(1) In section 17, sub-section (3), after the figures "24" the words, figures and letter "or section 24A" shall be deemed to be substituted.

(2) To the said section 17 the following shall be deemed to be added, namely :

"(4) sub-sections (1) and (3) shall apply also in the case of any area which is stated in a certificate granted by a salaried Presidency Magistrate or a Magistrate of the first class to be unhealthy."

"(5) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub-section (3) or section 9, and shall hear without any avoidable delay any objections which may be urged by them."

"(6) When proceedings have been taken under this section for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession."

5. New Section 17A :-

After section 17 the following shall be deemed to be inserted namely :

"17A. Transfer of land to Board. In every case referred to in section

16 or section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Board; and the land shall thereupon vest in the Board, subject to the liability of the Board to pay any further costs which may be incurred on account of its acquisition."

6. . :-

(1) Rep. by W.B. Act 1 of 1922.

7. . :-

(1) Rep. by W.B. Act 1 of 1922.

8. . :-

(1) Rep. by W.B. Act 1 of 1922.

9. Amendment of section 23 :-

1(1) Sub-section (2) of section 23 stands re-introduced.

(2) At the end of section 23 the following shall be deemed to be added, namely:

"(3) For the purposes of clause first of sub-section (1) of this section,

2(a) when acquisition is proposed to be made by the Board of land comprised within any improvement scheme framed by the Board and published under section 49 of the Calcutta Improvement Act, 1911, the market-value of the land shall be deemed to be the market-value according to the disposition of the land at the date of publication of the notice under sub-section (2) of section 43 of the said Act; and in other cases, the market-value shall be deemed to be the market-value according to the disposition of the land at the date of publication of the notification relating thereto under section 4;

3(bb) if the market-value has been increased or decreased owing to the land falling within or near to the alignment of a projected public street, so much of the increase or decrease as may be due to such cause shall be disregarded;

3(bbb) if any person, without the permission of the Chairman required by section 63, sub-section (8), of the Calcutta Improvement Act, **5**[or having erected, re-erected or added to any wall or building as aforesaid with such permission fails to remove such wall or building or any specified portion thereof when so

required by notice issued under sub-section (9) of the said section], then any increase in the market-value resulting from such erection, re-erection or addition shall be disregarded ;

(c) if the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before ⁶ [the date with reference to which the market-value is to be determined] such increase shall be disregarded, unless it be proved that the improvement was made bona fide and not in contemplation of proceedings for acquisition of the land being taken under this Act;

(d) if the market-value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded, and the market-value shall be deemed to be the market-value of the land if put to ordinary uses; and

(e) if the market-value of any building is specially high in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded, and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as could be accommodated in it without risk of danger from overcrowding."

1. This Sub-para first inst by W. B. Act 32 of 1955. Then it was subst. by W.B. Act 42 of 1983.

2. Subst. by W. B. Act 32 of 1955.

3. Inst. by Ben. Art 3 of 1915.

5. Inst. by W. B. Act 32 of 1955.

6. Subst. by W. B. Act 32 of 1955.

10. Amendment of section 24 :-

For clause seventhly of section 24 the following shall be deemed to be substituted, namely: "seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date ¹ [with reference to which the market-value is to be determined], unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair."

1. Subst. by W. B. Act. 32 of 1955.

11. New section 24A :-

After section 24 the following shall be deemed to be inserted, namely:

"24A. Further provisions for determining compensation. In determining the amount of compensation to be awarded for any land

(1) when any interest in any land acquired under this Act has been acquired after the date ¹[with reference to which the market-value is to be determined], no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land;

(2) if, in the opinion of the Tribunal, any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which the Tribunal considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, minus the estimated cost of putting it into such condition or state;

(3) if, in the opinion of the Tribunal, any building, which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for human habitation, the amount of compensation shall not exceed the value of the materials of the building, minus the cost of demolishing the building.

² (4) If any tank in any area comprised within a scheme framed by the Board and published under section 49 of the Calcutta Improvement Act, 1911, is, on account of accumulation of filth, rubbish or putrid matter or of the percolation of foul water from the kitchen, court-yard, privy or urinal, or for any other cause, in an unhygienic condition or contains water which is discoloured or malodorous or unfit for use for domestic purposes, or is a source of nuisance or disease, then notwithstanding anything contained in any law for the time being in force, the Tribunal shall in determining the amount of compensation, make such deduction from the market-value of the tank according to its present disposition as will, in their opinion, be a reasonable set-off against the cost to society in unhealthiness, disease and discomfort caused by the tank being kept in such an unhygienic or insanitary condition.

1. Subst. by W. B. Act 32 of 1955.

2. Clause (4) inst. by W. B. Act 32 of 1955.

12. . :-

Rep. by W.B. Act 1 of 1922.

12A. Amendment of section 27 :-

¹ Sub-section (2) of section 27 shall be deemed to be omitted.

1. Para 12A inst. by W. B. Act 32 of 1955.

13. New section 48A :-

¹ After section 48, the following section shall be inserted, namely:

"48A. Section 48 not to apply in certain cases. No compensation shall be payable in pursuance of section 48 when proceedings for acquisition

1. This para subst. by W. B. Act 38 of 1976.

14. Amendment of section 49 :-

¹ For sub-section (1) of section 49, the following sub-section shall be deemed to be substituted namely:

"(1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building if the acquisition of the part will render the full and unimpaired use of the remaining portion of the house, manufactory or building impracticable:

Provided that if any question shall arise as to whether the part proposed to be acquired will render the full and unimpaired use of the remaining portion of the house, manufactory or building impracticable, the Collector shall refer the determination of such question to the Court and shall not take possession of such part until after the question has been determined. In deciding on such a reference the Court shall have regard only to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the remaining portion of the house, manufactory or building."

1. This para inst. by W.B.Act 32 of 1955