

TRINIDAD AND TOBAGO.

[Published as a Supplement to the "Royal Gazette" issued on the
15th day of December, 1938.]

No. 32—1938.

I ASSENT,

[L.S.]

J. HUGGINS,

Acting Governor.

12th December, 1938

15th December, 1938.

AN ORDINANCE to amend the Land Acquisition
Ordinance, Cap. 168.

BE it enacted by the Governor of Trinidad and Tobago
with the advice and consent of the Legislative Council
thereof as follows :—

1. This Ordinance may be cited as the Land Acquisition Short title.
(Amendment) Ordinance, 1938, and shall be read as one Construction.
with the Land Acquisition Ordinance hereinafter referred Cap. 168.
to as the Principal Ordinance.

2.—(1) Section 3 of the Principal Ordinance is hereby Sec. 3 of the
amended by deleting the following words at the commence- Principal
ment of the said section, namely :— Ordinance
amended.

“ Whenever the Legislative Council has appropriated
any moneys towards any public works or
purposes,”

and substituting therefor the following :—

“ Whenever it appears to the Governor in Executive
Council that any land is likely to be needed for
any public works or purposes, a notification to
that effect shall be published in the *Royal*
Gazette under the hand of the Colonial Secretary
and thereupon ”.

(2) Section 3 of the Principal Ordinance is hereby further amended by adding at the end thereof the following proviso, namely :—

Provided further that compensation shall be paid to the owner of land so entered for any actual damage or injury resulting to him by reason of such entry, such compensation in the default of agreement or arbitration to be assessed in the manner provided by section 11 hereof.

Sec. 6 of the Principal Ordinance replaced. Notice of appropriation in *Gazette* to vest land in the Crown or of abandonment.

3. Section 6 of the Principal Ordinance is hereby repealed and replaced by the following —

6. On the acquisition of land under this Ordinance for public purposes being decided on by the Governor with the approval of the Legislative Council, it shall be lawful for the Governor by notice in the *Royal Gazette* to declare the same to have been appropriated for the public purposes mentioned in such notice, which declaration shall be conclusive that the land is needed for public purposes, and thereupon such land shall become vested in His Majesty the King ; but if the acquisition thereof be abandoned under any provision of this Ordinance, the land shall thenceforth revert in the owner or person interested for his prior estate, on similar notice of such abandonment being published in like manner.

Sec. 7 of the Principal Ordinance amended.

4. Section 7 of the Principal Ordinance is hereby amended by substituting the words “ three months ” for the words “ forty-two days ” appearing therein.

Sec. 13 of the Principal Ordinance amended.

5. Section 13 of the Principal Ordinance is hereby amended by deleting the following words appearing at the end of the section, namely—“ after valuation by one or more of the assessors appointed under section 31 of this Ordinance as he shall nominate for that purpose as hereinafter mentioned ” and substituting therefor the following—“ after valuation by one or more assessors appointed for that purpose under section 31 of this Ordinance ”.

Sec. 14 of the Principal Ordinance amended.

6. Section 14 of the Principal Ordinance is hereby amended by deleting the following words—“ nominate one or more of the assessors appointed under section 31 of this Ordinance to make such valuation as aforesaid, and

the assessors so nominated shall" and substituting therefor the following—"appoint one or more assessors under section 31 of this Ordinance to make such valuation as aforesaid and the assessors so appointed shall".

7. Section 20 of the Principal Ordinance is hereby amended by substituting for the reference therein to paragraphs (6), (7) and (8) of section 41 a reference to paragraphs 5 (b) (c) and (d) of section 41. Sec. 20 of the Principal Ordinance amended.

8. Section 26 of the Principal Ordinance is hereby amended by deleting all the words from the beginning of the section up to and including the words "hereinafter mentioned" in the sixth line thereof, and substituting therefor the following—"On the return of the summons for assessment the Judge shall, on the application of the Crown Solicitor or the persons alleged to be interested, appoint two assessors". Sec. 26 of the Principal Ordinance amended.

9. Section 31 of the Principal Ordinance is hereby amended by deleting the words from the beginning of the said section up to and including the words "on such list" in the eleventh line thereof, and substituting therefor the following—"For the purposes of this Ordinance assessors shall be appointed by a Judge on the application of the Crown Solicitor or of any person interested; such assessors shall be persons willing to serve when required and skilled in the valuation of property of the several descriptions of real property common in the Colony; each assessor . . .". Sec. 31 of the Principal Ordinance amended.

10. Sections 41 and 42 of the Principal Ordinance are hereby repealed and replaced by the following:— Secs. 41 and 42 of the Principal Ordinance replaced.

41. In assessing compensation for land acquired under this Ordinance the assessors or Judge shall act in accordance with the following rules:— Rules for assessment of compensation.

- (1) The value of the land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise at the date of publication in the *Royal Gazette* of the notice of appropriation under section 6 of this Ordinance:

- Provided that this rule shall not affect the assessment of compensation for any damage sustained by the person interested by reason of severance, or by reason of the acquisition injuriously affecting his other property or his earnings, or for disturbance, or any other matter not directly based on the value of the land.
- (2) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirements of any Government Department or any local or public authority.
 - (3) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the inmates of the premises or to the public health, the amount of that increase shall not be taken into account.
 - (4) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the assessors or Judge are satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.
 - (5) No allowance shall be made on account of—
 - (a) the acquisition being compulsory or the degree of urgency or necessity which has led to the acquisition ;
 - (b) any disinclination of the person interested to part with the land acquired ;
 - (c) any damage sustained by the person interested, which, if caused by a private person, would not render such person liable to an action ;

- (d) any damage, not being in the nature of deprivation of or interference with an easement or legal right, which after the time of awarding compensation is likely to be caused by or in consequence of the use to which the land acquired will be put ;
- (e) any increase to the value of the land acquired likely to accrue from the use to which the land acquired will be put ;
- (f) any outlay or improvement on such land which shall have been made, commenced, or effected, within two years before the publication of the notice of appropriation under section 6 of this Ordinance, with the intention of enhancing the compensation to be awarded therefor in the event or with the view of such and being required for public purposes.

42. As to severance, the Judge shall have ^{Severance.} power to assess compensation on the footing that any specified works, crossings, or access agreed to on behalf of the Director of Works and Transport shall be erected, provided, and allowed, and any such agreement shall be reduced into writing and be signed by the Judge, and shall be valid and effectual and binding on the Director of Works and Transport and on the claimant and his successors in title.

11. Section 45 of the Principal Ordinance is hereby ^{Section 45 of} amended by inserting the words " charges and expenses " ^{the Principal} after the word " costs " in the third line of the said section. ^{Ordinance} amended.

12. Sub-section (2) of section 50 of the Principal ^{Sec. 50 (2) of} Ordinance is hereby amended by deleting therefrom the ^{the Principal} words " in respect of which the Legislative Council may ^{Ordinance} have appropriated any money " and substituting therefor ^{amended.} the following—" on land acquired under this Ordinance ".

13. Section 58 of the Principal Ordinance is hereby ^{Sec. 58 of the} amended by deleting all the words beginning with the ^{Principal} words " and in such case " in the twelfth line to the end ^{Ordinance} of the said section, and substituting therefor ^{amended.} the following—" and in such case a resolution of the Board

approved by the Governor in Executive Council and published in the *Royal Gazette* shall, for the purposes of section 3 of this Ordinance, be deemed equivalent to the notification required by the said section.

Sec. 59 of the Principal Ordinance repealed.

Application of Ordinance—to Municipalities and Public Statutory Corporations.

14. Section 59 of the Principal Ordinance is hereby repealed and replaced by the following :—

59.—(1) Any Municipal or other public statutory Corporation authorised by the Ordinance creating such Corporation to acquire land compulsorily for any of the works or purposes mentioned in sub-section (3) hereof may at any time by their proper officers exercise all the powers of this Ordinance in respect of the entry into and acquisition of land required in the execution of their corporate or statutory duties without any other further authorisation or sanction than is provided in the Ordinance creating such Corporation, in the same manner in all respects as if such officers were included in the expression " Director of Public Works " in section 2 of this Ordinance, and unless otherwise specifically provided, a resolution of the Corporation authorising such entry or acquisition published in the *Royal Gazette* shall for the purposes of sections 3 and 6 of this Ordinance be deemed equivalent to the respective notifications required by the said sections.

To promoters.

(2) Any promoter (other than a Municipal or other public statutory Corporation) who shall have obtained the sanction of the Governor and Legislative Council for the undertaking, erection, or provision of any of the works or purposes mentioned in sub-section (3) hereof may from time to time by order of the Governor in Executive Council, and on the conditions in the following sections of this Ordinance mentioned, exercise the powers of this Ordinance for the entry into and acquisition of such land as the Governor in Executive Council may by order authorise to be acquired for such works or purposes.

Works and purposes for which land may be acquired.

(3) The works or purposes for which land may be acquired under this section, include railways, tramways, the supply of lighting, electricity, gas, water, or power, town and regional planning, slum clearance,

erection of houses for the working classes, irrigation, drainage, sewerage and other works relating to public health, reclamation of swampy areas, land settlement, public transportation including provisions for passenger stations, garages and parking places, aerodromes, and for any other work of a public nature not hereinbefore mentioned.

15. Section 60 of the Principal Ordinance is hereby amended by deleting all the words beginning with the words "and in such case" in the 17th line to the end of the said section, and substituting therefor the following—
"and in such case the publication thereof in the *Royal Gazette* shall, for the purposes of section 3 of this Ordinance, be deemed equivalent to the notification required by the said section".

Sec. 60 of the
Principal
Ordinance
amended.

16. Section 61 of the Principal Ordinance shall be numbered as sub-section (1) of that section, and the following shall be added thereto as sub-section (2) :—

Sub-section (2)
added to
sec. 61 of the
Principal
Ordinance.

- (2) On the acquisition of land under this Ordinance being decided on by the promoters, it shall be lawful for the Governor by notice in the *Royal Gazette* to declare the same to have been appropriated for the purpose mentioned in such notice, and thereupon such land shall become vested in the promoters.

Passed in Council this second day of December, in the year of Our Lord one thousand nine hundred and thirty-eight.

W. E. BOARDMAN,
Clerk of the Council.