

TRINIDAD AND TOBAGO.

*Frederick Street Improvement.*

No. 15.—1895.

*22nd April.*

AN ORDINANCE for the improvement of Frederick Street, in the Town of Port-of-Spain.

[L.S.]

F. NAPIER BROOME,

GOVERNOR.

*2nd May, 1895.*

WHEREAS it is expedient that the thoroughfare known as Frederick Street, in the Town of Port-of-Spain, should be widened and improved: 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 for all purposes as title.  
“The Frederick Street Improvement Ordinance, 1895.”

2. In this Ordinance,

“Lands” shall mean besides the ordinary meaning Definition.  
messuages and all other corporeal hereditaments and shall include easements.

“The Colonial Secretary” shall mean the Colonial Secretary of Trinidad and Tobago, representing the Government of Trinidad.

“The Town Superintendent” shall mean the Town Superintendent of Port-of-Spain.

“Supreme Court” shall mean the Supreme Court of Trinidad and Tobago.

“Judge” shall mean a Judge of the Supreme Court sitting in Chambers.

“Owner” shall include the occupier or other person interested, the trustee of any person, or the guardian of any infant, or the committee of any lunatic or idiot, having any beneficial interest in any lands.

Power to widen  
Frederick  
Street,

3. It shall be lawful for the Mayor and Burgesses of Port-of-Spain to widen and improve that portion of the thoroughfare in the Town of Port-of-Spain known as Frederick Street lying between King and Queen Streets.

Power to take  
lands for  
widening.

4. (1.) It shall be lawful for the Town Superintendent or any other person authorized by the Mayor and Burgesses of Port-of-Spain to take and appropriate for the purposes aforesaid any portion of the private lands lying along the said thoroughfare within twenty-four feet of the centre of the said thoroughfare.

(2.) No new building shall be erected at any less distance than twenty-four feet from the centre of the road-way of the said street.

Limitation.

5. No claim for compensation under this Ordinance shall be admissible unless made by letter to the Colonial Secretary or application to the Judge within twelve

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months of entry upon the land by the Town Superintendent as aforesaid.

6. The owner of any lands which shall be taken and appropriated or used for the improvement aforesaid or injuriously affected thereby shall be entitled to and shall receive, subject to the provisions hereinafter made, compensation for the value of the lands so taken or used and for all damages sustained by such owner by reason of the exercise as regards such lands of the powers granted by this Ordinance, the amount of such compensation to be ascertained and determined as hereinafter provided.

Owners, &c.,  
to receive com-  
pensation.

7. The compensation for such lands to be paid to such owner shall be assessed by a Judge, unless the Colonial Secretary shall agree with the owner as to the amount of compensation, and of all costs and expenses connected therewith, if any.

Compensation  
to be assessed  
by a Judge.

For the purpose of assessment by a Judge it shall be lawful for a Judge on the application of any such owner, and on notice being first given by such owner to the Colonial Secretary in which notice such owner shall state the sum which he is willing to accept as such compensation, to make order that the amount of such compensation be assessed by a Judge after the expiration of fourteen days from the date of the said order.

Procedure.

8. For the purpose of proceedings connected with such assessment the owner of the lands shall be deemed the Plaintiff, and the Colonial Secretary shall be deemed the Defendant.

Attendance  
and examina-  
tion of wit-  
nesses.

Either party shall have power to subpoena any person as a witness, and to enforce the attendance of

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such witness, and any witness failing to attend without sufficient cause, or who shall appear but refuse to be examined, or to give evidence touching the subject matter in question, shall be proceeded against in the same manner as any other person failing to attend or refusing to be examined or to give evidence as a witness before a Judge of the Supreme Court.

Taxation of  
costs.

9. The costs of proceedings before a Judge under this Ordinance shall be taxed by a Judge on the application of either party, and such costs shall include all reasonable costs, charges and expenses incurred in obtaining the order of assessment, the attendance of the witnesses, the employment of counsel and solicitors, recording the assessment, or otherwise incidental to such inquiry.

Amount of  
assessment  
how dealt  
with.

10. On the production of a copy of the assessment of a Judge, certified by the Registrar, the amount of such assessment shall be dealt with as hereinafter provided.

Costs—  
Payment of.

11. All costs and expenses incurred by the Colonial Secretary, the Town Superintendent or other person incidental to such inquiry shall be paid as hereinafter provided.

Betterment.

12. Where upon any enquiry as to compensation in respect of land taken under the authority of this Ordinance or injuriously affected by such taking the Judge is of opinion that the Estate or piece of land whereof the land so taken or injuriously affected forms part shall receive some benefit from the widening and improvement of such Street, the compensation which would otherwise be paid in respect of the part so taken or injuriously affected shall be reduced by the value of such benefit,

13. If in any case in which according to the provisions of this Ordinance the Town Superintendent or person authorized as aforesaid is authorized to enter upon and take any lands required for the purposes aforesaid, the owner or occupier of any such lands or any other person refuse to give up the possession thereof or hinder the Town Superintendent or person authorized as aforesaid, his workmen or servants, from entering upon or taking possession of the same, it shall be lawful for a Judge to issue a writ directed to the Marshal of the Island for the delivering of the possession of the lands.

Cases in which owner, &c., of lands shall refuse to give up possession thereof.

14. If any person having a mortgage or charge on any lands appropriated or taken for the purposes of this Ordinance, or the trustee for any such person, or the guardian of any infant, or committee of any lunatic having such mortgage or charge shall give notice in writing to the Colonial Secretary within forty days after such lands shall have been so appropriated or taken, of the amount due in respect of such mortgage or charge, and the nature and date of the instrument or security under which such mortgage or charge is claimed, it shall then be lawful for the Colonial Secretary and the Mayor and Burgesses of Port-of-Spain to pay the compensation and other moneys payable by them respectively in respect of such lands, or so much thereof as shall be sufficient to pay off the amount due in respect of such mortgage or charge, in the name and with the privity of the Registrar of the Supreme Court, to the Receiver-General, to be placed to the credit of the parties having such mortgage or charge on such lands, which parties shall be described so far as the Colonial Secretary can do so, subject to the control and disposition of the Supreme Court.

In cases where notice is given that lands taken for the Frederick Street Improvement are mortgaged, amount of such compensation to be deposited in Treasury in the name of the Registrar of the Court.

In cases of disputed title amount of compensation to be deposited in the Treasury in the name of the Registrar of the Court.

15. If any difficulty or question shall arise as to the title of any lands taken or used for the purposes of this Ordinance, or as to the person entitled to the compensation to be made in respect of such lands or any part thereof, it shall be lawful for the Colonial Secretary and the Mayor and Burgesses of Port-of-Spain to deposit the compensation payable in respect of such lands, in the name and with the privity of the Registrar of the Supreme Court, with the Receiver-General, to be placed to the credit of the parties interested in such lands, describing them so far as may be, subject to the control and disposition of the Supreme Court.

Moneys so deposited to be paid on the order of the Supreme Court.

16. Upon the application by petition of any party making claim to the moneys so deposited as aforesaid or any part thereof, the Supreme Court may, in a summary way, and after such notice as to the Court shall seem fit, and to such person or persons as the Court shall direct, order distribution and payment of such moneys according to the respective rights and interests of the parties making claim to such moneys, or any part thereof, and may make such other order in the premises as to the Court shall seem fit.

Costs depositing, &c., of moneys how to be paid.

17. In all cases of moneys deposited under this Ordinance, it shall be lawful for the Supreme Court, if they shall see fit, to order all costs attending the depositing of such moneys, and the orders for the distribution and payment of such moneys and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants, to be paid one-half by the Colonial Secretary and the other half by the Mayor and Burgesses of Port-of-Spain.

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18. If any person shall assault or beat or obstruct or aid or abet any person to assault or beat or obstruct the Town Superintendent or other person in the execution of his or their duty under this Ordinance, every such person shall be guilty of an offence against this Ordinance, and on summary conviction before a Stipendiary Justice of the Peace shall forfeit and pay any sum not exceeding Fifty Pounds, and in default of payment shall be imprisoned either with or without hard labour for any term not exceeding six months.

Penalties on  
obstruction,  
&c.

19. For the protection of persons acting in execution of this Ordinance, all actions and prosecutions to be commenced against the Colonial Secretary, against the Mayor and Burgesses of Port-of-Spain or person authorized as aforesaid, or their workmen, servants or agents or any other person for anything done by him or them in pursuance of this Ordinance shall be commenced within six calendar months after the act committed and not otherwise.

Protection of  
persons acting  
under Ordinance.

Notice in writing of such action and of the cause or causes thereof shall be given to the defendant one calendar month at least before the commencement of the action.

In any such action the defendant may plead the general issue and give this Ordinance and the special matter in evidence in any trial to be had thereupon.

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

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If a judgment shall pass for the defendant, or the plaintiff shall become nonsuit or discontinue any such action, the defendant shall be entitled to treble costs and have the like remedy for the same as any defendant hath by law in other cases.

Payments of  
compensation  
and costs.

20. All compensation, costs and other moneys payable under this Ordinance shall be paid as to one-half thereof by the Receiver-General on the Warrant of the Governor within three months of the agreement with the Colonial Secretary as aforesaid or of the assessment by the Judge. As to the other half thereof payment may be made by the Mayor and Burgesses of Port-of-Spain, but such payment, notwithstanding anything in this Ordinance, shall not be compulsory upon the Mayor and Burgesses of Port-of-Spain, and shall only be made if and when and to the extent to which the Mayor of Port-of-Spain, duly authorised in that behalf by a resolution of the Borough Council shall agree to make such payment, provided that a moiety of the costs and moneys other than compensation hereinbefore mentioned shall be paid by the Mayor and Burgesses of Port-of-Spain within three months of the agreement with the Colonial Secretary or the assessment of the Judge.

Moneys pay-  
able by  
Borough Coun-  
cil.

21. All moneys payable by the Mayor and Burgesses of Port-of-Spain under this Ordinance shall be paid in the first place out of the General Revenue of the Borough of Port-of-Spain, and in the second place if necessary out of the proceeds of a rate not exceeding Three Pence in the Pound on the amount of the annual rent or value of all houses in the Borough of Port-of-Spain, to be called "The Frederick Street Improvement

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Rate," which rate the Mayor and Burgesses of Port-of-Spain are hereby empowered to levy for the purposes of this Ordinance, such rate to be raised, collected and recovered, and such annual rent or value to be assessed in like manner in all other respects as of the House Rate authorized by the Ordinance No. 10 of 1853, intituled "An Ordinance for the regulation of Municipal Corporations in this Island."

Passed in Council this Twenty-second day of April, in the year of Our Lord one thousand eight hundred and ninety-five.

CHAS. J. ROOKS,  
*Acting Clerk of the Council.*

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