

TRINIDAD AND TOBAGO.

No. 5.—1896.

*20th April.*

AN ORDINANCE to authorize the acquisition of land  
for public purposes.

[L. S.]

F. NAPIER BROOME,

GOVERNOR,

*30th April, 1896.*

**B**E it enacted by the Governor of Trinidad and  
Tobago with the advice and consent of the Legis-  
lative Council thereof as follows :—

1. This Ordinance may be cited as “The Land Acquisition Ordinance, 1896.” Short title.

2. In this Ordinance the term—

Interpretation.

“Person interested” includes every person claim-  
ing an interest in compensation to be made  
on account of the acquisition of land under  
this Ordinance, but does not include a  
tenant by the month.

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"Colony" means the Colony of Trinidad and Tobago.

"Land" includes easement.

"Commissioner" means a Stipendiary Justice of the Peace acting under the provisions of Ordinance 16 of 1851, intituled "An Ordinance for the establishing of Petty Civil Courts."

"District Court" means a Court held under the authority of the "District Courts Ordinance, 1888."

Where under this Ordinance any notice shall be required to be given to the owner of any land, or where any act shall be authorized or required to be done with the consent of any such owner, the term "owner" shall mean any person who under the provisions of this Ordinance would be enabled to sell and convey lands taken under this Ordinance.

Governor may  
acquire lands  
for public  
works.

3. Whenever the Legislative Council has appropriated any moneys towards any public works or purposes it shall be lawful for the Governor to acquire the land necessary for such public works or purposes either by private agreement or by compulsory purchase in the manner hereinafter provided. At any time after such appropriation it shall be lawful for the Director of Public Works or for any other person authorized by the Governor to enter into and upon any land, and

(a) Survey the same,

(b) Set out, appropriate and take any lands so surveyed by him which may be deemed

necessary for any proposed public works or purposes.

(c) For the purposes of such survey to cut down any trees, wood or underwood growing on such lands: and

(d) To do all such other acts and things as may be deemed necessary for the purposes aforesaid.

Subject to the provisions of this Ordinance the soil of all such lands so surveyed set out appropriated and taken shall be vested in Her Majesty the Queen.

4. It shall be lawful for the Governor if he shall deem it desirable in the public interest, to abandon the acquisition of any land, notwithstanding that the same may have been entered upon, surveyed, set out, appropriated and taken under the provisions of Section 3, unless an award for compensation shall have been made by a Judge or Jury under the provisions hereinafter contained.

Governor may abandon lands acquired.

5.—(1.) If after any survey under the authority of Section 3 of this Ordinance, the Director of Public Works, shall not elect to set out, appropriate, or take any lands which he may have entered upon and surveyed or caused to be entered upon and surveyed, or if the Governor shall abandon the acquisition of any land, notwithstanding that the same may have been entered upon, surveyed, set out, appropriated and taken for public purposes, then and in every such case the owner or persons interested shall be entitled to claim compensation for any damage which may have accrued in consequence of such survey or such abandonment.

Compensation for damage to lands abandoned.

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Disposal of  
abandoned  
lands.

(2.) Where any land has become vested in the Queen under the provisions of Section 3 hereof, such land shall, if the acquisition thereof be abandoned from thenceforth revert in the owner or person interested.

(3.) If the owner or person interested shall refuse to accept such sum of money as may be offered to him by the Governor by way of compensation in satisfaction and discharge of any damage caused as aforesaid, then and in every such case the amount of such compensation shall be decided in the same manner as cases of disputed compensations for lands appropriated and taken under the provisions of this Ordinance.

Governor may  
contract and  
agree for pur-  
chase of land.

6. It shall be lawful for the Governor on behalf of Her Majesty to contract and agree with the owner for the purchase or exchange of any land which may be required for any public works or purpose and with all parties having any estate or interests in such lands or who by this Ordinance are enabled to sell and convey the same.

The purchase money of such land shall be paid to the owner by the Receiver-General on the warrant of the Governor.

Director of  
Public Works  
to post notice.

7.—(1.) When the Director of Public Works or persons authorized as aforesaid shall set out, appropriate and take any lands for the purposes of any public works he shall cause such lands to be marked out and a notice to be posted in some conspicuous part of such lands, and such notice shall state for what public work such land has been taken and that claims for compensation for all interests therein may be made to the Director of Public Works and such notice shall be

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signed by the Director of Public Works or person authorized as aforesaid, and the marking out of such lands and the putting up of such notice shall be conclusive evidence of the said lands having been set out, appropriated and taken for a public work.

(2.) Such notice shall also state the particulars of the land and shall require the owner and all persons interested therein to appear personally or by attorney or agent before the Director of Public Works or person authorized by him in that behalf at a place and time in such notice mentioned (such time not being earlier than thirty days from the date of the publication of the notice) to state the nature of their respective interests in the land and the amounts and particulars of their claims to compensation for such interests.

(3.) The Director of Public Works or person authorized by him shall also serve notice to the same effect on the occupier of any such land and on all mortgagees and on all such other persons as are known or believed to be interested therein or to be entitled to act for the persons so interested.

~ Provided that if such mortgagee or person so interested shall be absent from the Colony and has no attorney or agent within the Colony and his address be known notice may be sent to him by post.

Any person removing any marks or defacing any notice placed or posted in accordance with the provisions of this Ordinance shall be guilty of an offence against this Ordinance, and on summary conviction before any Stipendiary Justice of the Peace shall forfeit and pay any sum not exceeding Twenty Pounds,

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and in default of payment thereof shall be imprisoned either with or without hard labour for any term not exceeding six months.

Director of  
Public Works  
may require  
information  
respecting  
land taken.

8.—(1.) The Director of Public Works or person authorized as aforesaid may require the occupier and any other person known or believed to be interested in the land to deliver to him within a time to be specified being not less than twenty-one days a statement in writing containing so far as may be within his own knowledge, the name of every other person possessing any interest in the land or any part thereof as co-partner, mortgagee, lessee, sub-lessee, tenant or otherwise and of the nature of such interest and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

(2.) Every person required to make and deliver a statement under this Ordinance who shall wilfully make any false statement or refuse to make a statement shall be guilty of an offence punishable on Summary Conviction and on conviction thereof before a Stipendiary Justice of the Peace may be fined any sum not exceeding £50 or in default of payment may be imprisoned with or without hard labour for any term not exceeding six months.

Parties under  
disability en-  
abled to sell  
and convey.

9. It shall be lawful for all parties being seized possessed of or entitled to any such lands or any estate or interests therein to sell and convey or release the same to the Governor and to enter into all necessary arrangements for that purpose; and particularly it shall be lawful for all or any of the following parties so seized, possessed or entitled as aforesaid, so to sell, convey or release (that is to say) all corporations

tenants in tail or for life, married women seized in their own right or entitled to dower, guardians, committees of lunatics or idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower or to any lease for life or for lives and years and for years or any less interest and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties other than married women entitled to dower or lessees for life or for lives and years or for any less interest not only on behalf of themselves and their respective heirs executors, administrators, and successors but also for and on behalf of every person entitled in reversion, remainder or expectancy after them or in defeazance of the estates of such parties and as to such married women whether they be of full age or not as if they were sole and of full age and as to such guardians on behalf of their wards and as to such committees on behalf of the lunatics and idiots of whom they are the committees respectively and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this Ordinance if they had respectively been under no disability and as to such trustees, executors, and administrators on behalf of their *cestuis que* trust whether infants, issue unborn, lunatics, *femes covert* or other persons, and that to the same extent as such *cestuis que* trust respectively could have exercised the same power under the authority of this Ordinance if they had respectively been under no disability.

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Other powers  
of parties  
under disa-  
bility.

10. The power to release lands from any rent charge or incumbrance and to agree for the apportionment of any such rent charge or incumbrance shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands.

Compensation  
to absent  
parties to be  
fixed by  
judge.

11. The purchase-money or compensation to be paid for any lands to be purchased or taken by the Director of Public Works or person authorized as aforesaid from any party who by reason of absence from this Colony is prevented from treating or who cannot after diligent inquiry be found or who shall not appear at the time appointed for the inquiry before a jury after due notice thereof and the compensation to be paid for any permanent injury to such lands shall be such as shall be determined by a Judge after the valuation of such able practical surveyors or valuers as he shall nominate for that purpose as hereinafter mentioned.

Judge to  
nominate  
surveyors.

12. Upon application by the Director of Public Works or person authorized as aforesaid to a Judge and upon such proof as shall be satisfactory to him that any such party is by reason of absence from this Colony prevented from treating or cannot after diligent inquiry be found or that any such party failed to appear on such inquiry before a jury after due notice to him for that purpose such Judge shall by writing under his hand nominate able practical surveyors or valuers to make such valuation as aforesaid and such surveyors or valuers shall thereupon proceed accordingly and shall annex to their valuation a declaration in writing subscribed by them of the correctness thereof.

Declaration by  
surveyor.

13. Before such surveyors or valuers shall enter upon the duty of making such valuation as aforesaid



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they shall in the presence of a judge make and subscribe the declaration following at the foot of such nomination:—

“I (A.B.) do solemnly and sincerely declare that  
I will faithfully, impartially and honestly  
according to the best of my skill and ability  
execute the duty of making the valuation  
hereby referred to me.

(A. B.)

“Made and subscribed in the presence of——”

And if any surveyor or valuer shall corruptly act contrary to such declaration he shall be guilty of a misdemeanour, and on conviction thereof before the Supreme Court shall be liable to imprisonment for any term not exceeding two years.

14. The said nomination and declaration shall be annexed to the valuation to be made by such surveyors or valuers and shall be delivered to the Director of Public Works and shall be by him preserved together therewith, and he shall at all times produce the said valuation and other documents on demand to the owner of the lands comprised in such valuation and to all other person interested therein.

Safe custody  
and production  
of valuation,  
etc.

15. All the expenses of and incidental to every such valuation shall be borne by the Director of Public Works.

Expenses  
how to be  
borne.

16. The compensation awarded by the Judge shall be paid into the Colonial Treasury to the credit of the person to whom such compensation shall have been awarded if such person cannot be found or is absent from Trinidad, and upon the application by petition to a Judge the moneys so deposited shall be paid to such

Disposal of  
compensation  
money in case  
of absent  
owners.

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persons according to their respective rights and interests as the Supreme Court may direct and order.

Dispute as to  
amount of  
compensation  
to absent  
owners.

17. If such last mentioned owner or person interested shall be dissatisfied with such valuation it shall be lawful for him before he shall have applied to the Supreme Court for payment of the moneys so deposited under the provisions herein contained by notice in writing to the Director of Public Works to require the question of such compensation or purchase money to be submitted for the verdict of a jury and thereupon the same shall be submitted accordingly in the same manner as in other cases of disputed compensation under this Ordinance.

Person in  
possession to  
be deemed  
owner.

18. Where any question shall arise touching the title of any person to any lands which may be taken or entered upon for the purposes of this Ordinance, or touching any estate or interest therein, the person having the ostensible possession or enjoyment of the rents and profits of such land shall be deemed the owner of the same, for the purpose of determining the amount of compensation payable in respect of any such lands.

Compensation  
to adjacent  
proprietors.

19. The owner of or person interested in any land which may be injuriously affected by the erection or construction upon adjacent lands of any public work shall be entitled to compensation for any damage which may be so caused.

Procedure  
where no offer  
made by  
Governor to  
purchase.

20. If no offer to purchase any such lands shall be made by the Governor within three months from the day on which such lands shall have been entered upon set out appropriated and taken under this Ordinance, or if the owner of any lands shall refuse to accept such sum of

money as may be offered by the Governor for the purchase thereof, in the absence of any consent to refer any question of compensation to arbitration, the compensation for such lands to be paid to such owner shall be settled by the verdict of a jury if the compensation claimed shall exceed £50—and by the Judge of any District Court or by any Commissioner of the District in which such lands shall be situate if the compensation claimed shall not exceed £50.

21. In cases where the compensation claimed does not exceed Fifty Pounds a Judge of a District Court or Commissioner as aforesaid upon the application of either party may summon the other party to appear before him at a time and place to be named in the summons and upon the appearance of such parties, or in the absence of any of them, upon proof of the due service of the summons, it shall be lawful for him to hear and determine such question and for that purpose to examine such parties or any of them and their witnesses upon oath, and the costs of every such enquiry shall be in his discretion, and he shall settle the amount thereof.

22. For such purpose and in cases where the compensation claimed exceeds Fifty Pounds it shall be lawful for the Supreme Court on the application of any such owner, and on notice being first given by such owner to the Director of Public Works in which notice such owner shall state the sum which he is willing to accept as such compensation, to make order that the value of such lands be assessed by a jury before a Judge of the Supreme Court at any sitting of the said Court held after the expiration of thirty days from the date of the said order; and thereupon a writ shall issue to

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the Marshal requiring him to summon a jury for that purpose.

Arbitration.

23. Nothing in this Ordinance contained shall be construed or deemed or taken to prevent or preclude the persons interested from submitting the matters in difference between them as to compensation for lands to the decision of an Arbitrator or Arbitrators in manner provided by the LIX Order of the Rules of Court in the Schedule of "The Judicature Ordinance 1879" or in such manner as may be provided by any Law, Rule, or Regulation which hereafter may be passed with regard to arbitrations or awards

Summoning of juries.

24. The Marshal shall summon a jury of not less than twenty-four indifferent persons duly qualified to act as jurors, and out of the jurors appearing on such summons, a jury of twelve persons shall be drawn by the Registrar in such manner as juries for the trial of issues are by law required to be drawn.

If a sufficient number of jurymen do not appear in obedience to such summons, the Marshal shall return other indifferent men, duly qualified as aforesaid, of the bystanders or others who can speedily be procured to make up the jury, and all parties may have their lawful challenge against any of the jurymen.

Owner to be plaintiff.

25. On such inquiry the owner of the land shall be deemed the plaintiff, and the Director of Public Works shall be deemed the defendant.

Either party shall have power to subpoena any person as a witness, and to enforce the attendance of such witness, and any witness failing to attend without sufficient cause, or who shall appear but refuse to be

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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.

26. The jurors on every such jury shall make oath, Oath to be taken by jurors. or affirmation in those cases where an affirmation is admitted in lieu of an oath, that they will truly and faithfully assess the compensation for the lands in respect of which their verdict is to be given.

27. Where the verdict of the jury shall be given for Costs. a sum not exceeding the sum if any previously offered by the Governor as such compensation, all the costs of such enquiry shall be borne by such owner, and shall be deducted from and out of the amount assessed by the jury, but if the verdict of the jury be given for a greater sum than the sum previously offered, or if no offer shall have been previously made to the owner, the costs of such inquiry shall be allowed to the owner.

28. The costs of any enquiry in the Supreme Court Taxation of costs. 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 for inquiry, the summoning empanelling and returning of the jury, the attendance of the witnesses, the employment of Counsel and Solicitors, and recording the verdict and judgment thereon or otherwise incidental to such inquiry.

29. The Registrar of the Supreme Court shall sign Judgment, signing of. judgment, which judgment shall be for the amount assessed by the jury, together with the costs if any,

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allowed to the owner of the land, or for the amount so assessed, after deducting the costs, if any, payable by the owner and shall keep such judgment among the records of the Supreme Court.

Payment of  
compensation  
recovered.

30. On the production of a copy of a judgment of the Supreme Court, certified by the Registrar, or on the production of a copy of a judgment, certified by a Judge of a District Court or a Commissioner the amount for which judgment shall have been given shall be paid to the owner by the Receiver-General on the warrant of the Governor.

Costs of  
Director of  
Public Works.

31. All costs and expenses incurred by the Director of Public Works incident to such inquiry shall be paid by the Receiver-General on the warrant of the Governor.

Power to  
Governor to  
purchase ad-  
joining land  
which may be  
injuriously  
affected.

32. Whenever any portion of land is injuriously affected by reason of the same being severed from the remaining and greater part of the lands of any owner taken under the authority of this Ordinance, it shall be lawful for the Governor on behalf of Her Majesty the Queen at the request of the owner to buy the small portion of land so severed and cut off, and from time to time to resell the same, either together or in parcels, and the moneys arising from the sale of such last mentioned land shall be carried to the general revenue of the Island.

Betterment.

33. Where upon any enquiry as to compensation in respect of land taken under the authority of this Ordinance or injuriously affected thereby the Jury, Arbitrators, Judge, or Commissioner as the case may be, is or are of opinion that the Estate or piece of land whereof the land so taken or injuriously affected forms

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part shall have received some benefit from the construction or execution of such public work or purpose, the compensation which would otherwise be paid in respect of the part so required or injuriously affected shall be reduced by the value of such benefit.

34. No claim for compensation in respect of any lands which may be entered upon, surveyed, set out, appropriated or taken under the authority of this Ordinance shall be admitted or entertained, unless the same shall be made within twelve months after the day on which such lands shall have been so entered upon, surveyed, set out, appropriated or taken.

Claim for compensation to be made within a limited time.

No claim for compensation in respect of any lands which may be alleged to have been injuriously affected by the construction of any public work in respect of which the Legislative Council may have appropriated any money shall be admitted or entertained after the expiration of 12 months computed from the date of a notice published in the *Royal Gazette* by the Director of Public Works certifying the completion of such public work.

Nothing in this Ordinance contained shall be construed or deemed to confer upon any person any right to compensation in respect of any land resumed in the name of Her Majesty, Her heirs or successors as required for Railways or other public works in pursuance of any condition, reservation or power of resumption contained in any grant of Crown or waste lands.

35. If in any case in which according to the provisions of this Ordinance the Director of Public Works or person authorized as aforesaid is authorized

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

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to enter upon and take any lands required for any public work, the owner or occupier of or person interested in any such lands or any other person refuse to give up the possession thereof or hinder the Director of Public Works or persons authorized as aforesaid, his workmen or servants, from entering upon or taking possession of the same, it shall be lawful for the Governor to issue his warrant to the Marshal to deliver possession of the same to the Director of Public Works or person authorized as aforesaid, and upon the receipt of such warrant the Marshal shall deliver possession of any such lands accordingly; and the costs accruing by reason of the execution of such warrant to be settled by the Marshal and allowed by the Governor, shall be paid by the person refusing to give possession, or hindering the Director of Public Works or person authorized as aforesaid, his workmen or servants as aforesaid, and the amount of such costs shall be deducted and retained by the Governor from the compensation, if any, then payable by him, to such party, and if no compensation be payable to such party, or if the same be less than the amount of such costs, then such costs or the excess thereof beyond such compensation if not paid on demand shall be levied by distress, and upon application to any Justice of the Peace for that purpose he shall issue his warrant accordingly.

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

36. If any person having a mortgage or charge on any lands set out, 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 Director of Public Works or person autho-



rized as aforesaid within the time specified in the notice after such lands shall have been so set out, 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 Governor to deposit the compensation payable 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, with the Receiver-General, to be placed to the credit of the parties having such mortgage or charge in such lands, describing them so far as the Director of Public Works or other person as aforesaid can, subject to the control and disposition of the Supreme Court.

37. 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.

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

38. In all cases of moneys deposited under this Ordinance, it shall be lawful for the Supreme Court, if it 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 liti-

Costs depositing, &c., of moneys to be paid by Receiver-General.

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gation between adverse claimants, to be paid by the Receiver-General on the warrant of the Governor.

Assaulting or  
obstructing  
Marshal or  
Director of  
Public Works.

39. If any person shall assault or beat or obstruct or aid or abet any person to assault or beat or obstruct

(a) The Marshal or any of his assistants in the execution of his duty under this Ordinance ;  
or

(b) The Director of Public Works or other person authorized as aforesaid, or his workmen, servants or agents 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.

Protection of  
persons acting  
under Ordinance.

40. For the protection of persons acting in execution of this Ordinance, all actions and prosecutions to be commenced against the Director of Public Works or person authorized as aforesaid, or his workmen, servants or agents 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.

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.

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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.

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.

41. 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 Governor 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 persons interested in such lands, describing them so far as can be done, subject to the control and disposition of the Supreme Court.

Where title  
disputed com-  
pensation to be  
deposited in  
Treasury.

42. Upon the application by petition of any person 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 persons 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.

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

Costs to be  
paid by  
Receiver-  
General.

43. In all cases of moneys deposited under this Ordinance, it shall be lawful for the Supreme Court, if it 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 by the Receiver-General on the warrant of the Governor.

44. All reasonable costs, charges and expenses incurred by the owners of the land or parties therein interested for all conveyances and assurances of any lands purchased or acquired, and of any outstanding terms of interest therein, and of deducing, evidencing, and producing title to such lands, terms or interest, and of making out such abstracts, and attested copies as the Director of Public Works may require, and all other reasonable expenses incident to the investigation, deduction, and verification of titles shall be paid by the Receiver-General on the warrant of the Governor.

Matters to be  
considered in  
determining  
compensation.

45. In determining claims for compensation for lands acquired under this Ordinance, the Jury, Judge or Commissioner may take into consideration

1. The market value of the land at the time of awarding compensation ;
2. The damage sustained by the person interested at the time of awarding compensation by reason of severing such land from his own land ;
3. The damage (if any) sustained by the person interested at the time of awarding compen-

sation, by reason of the acquisition injuriously affecting his other property, whether movable or immovable, in any other manner, or his earnings ;

4. If in consequence of the acquisition he is compelled to change his residence, the reasonable expenses (if any) incidental to such change ;

but shall not take into consideration the following :—

5. The degree of urgency or necessity which has led to the acquisition ;
6. Any disinclination of the person interested to part with the land acquired ;
7. Any damage sustained by the person interested, which if caused by a private person, would not render such person liable to an action ;
8. Any damage 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 ;
9. Any increase to the value of the land acquired likely to accrue from the use to which the land acquired will be put ;
10. Any outlay or improvements on such land made, commenced, or effected with the intention of enhancing the compensation to be awarded therefor under this Ordinance.

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Effect of pay-  
ment into  
Court.

46. Payment into Court shall finally bar, exclude and extinguish all estate, rights, interests, claims, liens and demands of every nature or kind in, to, or upon, the land or right in relation thereto in respect of which such payment into Court has been made, and from the date of such payment into Court the said land or right shall be deemed to have become absolutely vested in Her Majesty, Her heirs or successors in trust for public purposes, and shall and may be quietly entered into and upon and used as of right for such purposes.

Repeal.

47. There shall be repealed as from the commencement of this Ordinance :—

(a.) The Railway Lands Survey and Acquisition Ordinance, 1894.

(b.) So much of any other Ordinance or Law as is inconsistent with this Ordinance.

Saving.

Provided that this repeal shall not affect :—

(i.) Anything duly done or suffered before the commencement of this Ordinance under any enactment hereby repealed ; or

(ii.) Any right or privilege acquired, or any liability incurred before the commencement of this Ordinance under any enactment hereby repealed ; or

(iii.) Any imprisonment, fine, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before the commencement of this Ordinance under any enactment hereby repealed ; or

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- (iv.) The institution or prosecution to its termination of any investigation or legal proceeding or any other remedy for prosecuting any such offence, or ascertaining, enforcing, or recovering any such liability, imprisonment, fine, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding and remedy may be carried on as if this repeal had not been enacted.

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

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

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