



SAINT CHRISTOPHER---NEVIS.

No. 10---1884.

An Ordinance to provide for
the protection of the town of
Basseterre against flood.

I ASSENT,

NEALE PORTER,

Administrator.

WHEREAS it is expedient to provide for the protection of
the Town of Basseterre against Flood.

BE it ordained by the Governor and Legislative Council
of the Presidency of St. Christopher and Nevis as follows:—

1. The Governor in Council may for the purpose of protecting the town of Basseterre from Flood and subject to the provisions of this Ordinance purchase any lands in the Island of St. Christopher on behalf of and in trust for Her Majesty Her Heirs and Successors and construct and maintain all such works as he may think necessary or desirable for carrying out such purpose so that the said works be in accordance with the recommendations contained in the copy of the portion of a report by Captain Alexander R. E. set out in Schedule A of this Ordinance. Provided that the cost to be incurred in the purchase of such lands and in constructing and maintaining such works shall not exceed such sum or sums as the Governor and Legislative Council of this Presidency shall by vote or Ordinance previously provide.

Power to purchase lands and execute and maintain works.

Things authorized to be done to construct works.

2 The Governor in Council may for the purpose of this Ordinance and subject to its provisions in the construction of works enter upon any lands and survey and take levels of the same and set out such part thereof as he may think necessary and dig and break up the soil of such lands and trench and sough the same and remove or use all earth stone mines minerals trees or other things dug or gotten out of the same: He may take up and use or divert any springs streams or waters and take such water as may be found in under or on the lands to be taken for constructing the works. Provided always that in the exercise of the said powers the Governor in Council shall do as little damage as can be and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers.

2 (a) If any owner or occupiers of premises required and taken for the purposes of this Ordinance who is entitled to compensation in respect thereof shall in writing addressed to the Governor so require, the Governor in Council shall provide such owner or occupier with a new site of equal value with that of the premises taken as a part of or by way of any compensation, which such owner or occupier shall be entitled to and the Governor in Council may purchase lands for the purpose of providing such new sites and may convey the same in fee-simple or let portions thereof for such new sites as may be agreed between such owner or occupier and the Governor in Council and any dispute arising under this section shall be decided in the manner provided for the settlement of disputed cases of compensation for lands taken under this Ordinance.

Power to open roads streets &c

3. The Governor in Council may open and break up the soil and pavement of any road or street and break up any sewer drain or tunnel within or under any street or bridge and lay down and place in or under any part of any road or street pipes conduits and other works and engines and from time to time repair alter or remove such respective works engines or things hereinbefore mentioned with as little delay as possible replacing and restoring any road or street so broken up and making compensation for any damage done in the execution of such powers.

Power to stop up and divert highways.

4. The Governor in Council may stop up or divert any public highway or street necessary to be taken for the purpose of this Ordinance.

Power to contract.

5. The Governor in Council may contract and agree with any person company or body of persons for constructing doing and carrying out all the works things and the undertaking or any other part thereof hereby authorized to be carried out and

also for maintaining and keeping in good order the said works things or undertaking or any part thereof and in such manner and for such sum and sums of money and under such regulations as the Governor in Council may think proper and the Governor in Council may call to his assistance such legal and other professional aid as he may require to enable him to carry out the provisions of this Ordinance and all contracts in writing for any of the purposes aforesaid shall be binding on the Government of the Presidency of St. Christopher and Nevis and all other parties thereto, their respective successors heirs executors and administrators and actions and suits may be maintained thereon and all damages and costs recovered by or against the said Government or by or against any other party thereto failing in the execution thereof.

6. With respect to the purchase of lands by the Governor in Council for the purpose of this Ordinance the following regulations shall be observed that is to say :—

(i.) It shall be lawful for the Governor in Council to agree with the owners of lands required for the purposes of this Ordinance and with all parties having any estate or interest in such lands for the absolute purchase for a consideration in money of any such land or such parts thereof as the Governor in Council may think proper and of all estates and interests in such lands of what kinds soever.

(ii.) With respect to the purchase and taking of lands otherwise than by agreement when the Governor in Council shall require any of the lands he is authorized to purchase or take by this Ordinance he shall give notice thereof to all the parties interested in such lands or to the parties enabled by this Ordinance to convey and sell the same or such of the said parties as shall after diligent enquiry be known and by such notice shall demand from such parties the particulars of their Estate and interest in such lands and of the claims made by them in respect thereof and every such notice shall state the particulars of the lands so required and that the Governor in Council is willing to treat for the purchase thereof and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works.

(iii.) All notices required to be served by the Governor-in-Council upon the parties interested or entitled to sell shall either be served personally on such parties or left at their last usual place of abode if any such can after diligent enquiry be found and in case any such parties shall be absent from the

Presidency of St. Christopher and Nevis or cannot be found after diligent enquiry shall also be left with the occupier of such lands or if there be no such occupier shall be affixed upon some conspicuous part of such lands; and in the case of corporations and companies such notice may be served by being left at the principal office of business of such corporation or company.

After 21 days proceedings for settling disputed cases.

(iii.) If for twenty one days after the service of such notice any such party shall fail to state the particulars of his claim in respect to any such land or to treat with the Governor in Council in respect thereof or if such party and the Governor in Council shall not agree as to the amount of compensation to be paid by the Governor in Council for the Interest in such lands or for any damage that may be sustained by such party by reason of the execution of the works the amount of compensation shall be settled in a manner hereinafter provided for settling cases of disputed compensation.

Mode of settling disputed cases.

(v.) If no agreement be come to between the Governor in Council and the owners or parties enabled by this Ordinance to sell and convey or release any lands taken or required for or injuriously affected by the execution of the undertaking or any interest in such lands as to the value of such lands or any interest therein or as to the compensation to be made in respect thereof.

Claims not exceeding £20 to be settled by a District Magistrate.

(a) If in any such case the compensation claimed shall not exceed twenty pounds the same shall be settled by a District Magistrate on the application of either party and the said Magistrate shall have power to summon the other party at a time and place to be named in the summons and upon the appearance of both parties or in the absence of any of them upon proof of the service of the summons to hear and determine the question and to examine witnesses on oath for that purpose and the cost of such enquiry shall be in the discretion of the said Magistrate and he shall settle the amount thereof.

Claims exceeding £20 to be determined by arbitrators or umpire. Regulations as to arbitration.

(b) If the compensation claimed or offered in any such case exceed twenty pounds the amount to be paid by the Governor in Council shall be determined by two arbitrators one to be named by the Governor in Council and the other by the other party; and in case of the said arbitrators not agreeing or in the event of their neglecting to make an award within twenty one days after the

date on which the last of such arbitrators was appointed by an umpire to be nominated by the Chief Justice or any Judge of the Supreme Court of the Leeward Islands. Provided that if either party refuse or neglect to nominate an arbitrator the other party may nominate an arbitrator to act for both parties after giving the party refusing or neglecting to nominate fourteen days notice in writing of his intention to proceed in default of such nomination by the other party, and the decision of such single arbitrator shall in that case be final. Provided also that if the amount awarded by two arbitrators appointed by the parties or by an umpire nominated by the Chief Justice or a Judge as aforesaid exceeds two hundred pounds, either party may if dissatisfied appeal to the Supreme Court and the issue may be tried in the same manner as an issue in an action at law at the next ensuing Circuit Court to be held in St. Christopher after such determination by the said arbitrators or umpire or at such other time as a Judge of the said Court may direct and the party appealing shall give the other party a written notice of appeal within seven days of the date of the decision appealed against otherwise he shall not be allowed to appeal.

Appeal to Court where the award exceeds £200

Notice of Appeal.

The costs of arbitrations shall be borne by the Governor in Council.

Costs of arbitrations.

The costs of appeals shall be in the discretion of the Court.

Costs of Appeals

In the event of death or incapacity to act of any arbitrator the matter shall begin *de novo* and if either arbitrator refuse or neglect for seven days to act the other may proceed *ex parte*. The arbitrators and umpire may call for books and documents which they or he may think necessary and administer oaths to witnesses and the parties for the purpose of examining upon oath.

Evidence at hearing of disputed cases.

7. It shall be lawful for all parties being seized possessed of or entitled to any such lands or any Estate or Interest therein to sell and convey or release the same to the Governor in Council and to enter into all necessary agreements 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 and 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

Parties under disability enabled to sell and convey.

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and years or 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 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 defeasance 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 Cestuique Trusts whether Infants, Issue unborn, Lunatics, Femmes Covert, or other persons and that to the same extent as such Cestuique Trusts respectively could have exercised the same powers under the authority of this Ordinance if they had respectively been under no disability; and the power hereinafter given to release lands from any Rent charge or Incumbrance and to agree for the appointment 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 to the Governor.

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In case of disability the amount to be determined by Surveyor.

8. In the case of lands to be purchased or taken from any party under any disability or incapacity and not having power to sell or convey such lands except under the provisions of this Ordinance the purchase money and compensation shall be determined by the valuation of an able surveyor to be appointed by the Chief Justice or any Judge of the Supreme Court of the Leeward Islands or two surveyors nominated one by each of the parties and in every such case the surveyor or surveyors shall append to the valuation a declaration in writing subscribed by him or them of the correctness thereof.

Application of purchase money.

9. And with respect to the application of purchase moneys or compensation to be paid by the Governor in Council in respect of the taking using or interfering with lands for the purposes of this Ordinance Be it ordained as follows:—

Sums not exceeding £20 to be paid to parties entitled to rents and profits.

(i) If the sum shall not exceed Twenty pounds the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable for their own use and benefit or in case of coverture Infancy Idiocy Lunacy or other incapacity of such parties then such money shall be paid for their use to the respective Hus-

Hands Guardians Committees or Trustees of such persons.

(ii) If the sum exceed Twenty pounds and is payable to any corporation Tenant for life or in Tail married Woman seised in her own right or entitled to Dower Guardian Committee of Lunatic or Idiot Trustee Executor or Administrator or to any person having a partial or qualified interest only in such lands and not entitled to sell or convey the same except under the provisions of this Ordinance or to any person not entitled to dispose of the lands or interest therein contracted to be sold by him absolutely for his own benefit, the said sum shall be carried to a separate account in the books of the public Treasury of this Presidency to the credit of the person or persons properly entitled to the said sum and the said account shall show in respect of what lands the said sum is payable and the respective names and addresses of all claimants to such sum or any part thereof so far as the same may have been brought to the notice of the Treasurer and after the entry of such sum in such separate account aforesaid the same shall not be paid to any person except by and in accordance with an order of a Judge of the Supreme Court. Provided always that if the said sum do not exceed Two hundred pounds and shall exceed twenty pounds, the same may be lawfully paid to two Trustees to be nominated by the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable such nomination to be signified by writing under the hand of the party so entitled; and in case of the coverture infancy lunacy or other incapacity of the parties entitled to such monies such nomination may lawfully be made by their respective husbands Guardians Committees or Trustees, but such last-mentioned application of the monies shall not be made unless the Governor in Council approve thereof, and if the Trustees, named for the purpose and the money so paid to such Trustees and the produce arising therefrom shall be by such Trustees paid to any party becoming absolutely entitled to such money and meanwhile and until such payments may be by such Trustees invested in real securities in the Islands of St. Christopher and Nevis or in Public Funds or in Government Securities but it shall not be necessary to obtain any order of the Court for such payment or investment.

Sums exceeding £20 payable to persons having a limited interest or under disability to be carried to a separate account in Treasury subject to control and disposition of Supreme Court.

Sums between £20 and £200 may be paid to Trustees.

(iii) If the owner of lands purchased or taken by the Governor in Council or of any interest therein

Owner refusing to accept sum agreed or awarded.

on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a Title to such lands or to the Interest therein claimed by him to the satisfaction of the Governor in Council or if he refuse to convey or release such lands as directed by the Governor in Council or if any such owner be absent from the presidency or cannot after diligent inquiry be found or fail to appear on the inquiry directed by this Ordinance, it shall be lawful for the Governor in Council to direct the Treasurer to carry the purchase money or compensation payable in respect of such lands or any interest therein to a separate account in the books of the Public Treasury as aforesaid to the credit of the parties interested in such lands described therein so far as the Governor in Council can do and the same shall not be paid to any person except by and in accordance with an order of a Judge of the Supreme Court, and immediately upon such purchase money or compensation being carried to such separate account as aforesaid the lands and interests therein in respect of which such purchase money or compensation become payable shall vest absolutely in the Governor and his successors in Office in trust for Her Majesty Her Heirs and successors.

Or the owner being absent.

Amount to be carried to a separate account subject to control of Supreme Court.

Costs of application to Court except in certain cases to be paid by Governor in Council.

(iv) In all cases where any application to the Supreme Court may become necessary for the application of monies payable under this Ordinance for purchases or compensation except where such monies have been carried to such separate account as is hereinbefore provided by reason of the wilful refusal of any party entitled thereto to receive the same or to convey or where the lands in respect of which the same shall be payable or by reason of the wilful neglect of any party to make out a good title to the land required it shall be lawful for the Supreme Court to order all reasonable charges and expenses incident to such application and of obtaining the proper orders for the purposes aforesaid to be paid by the Governor in Council.

Power of Supreme Court to decide summarily and regulate proceedings.

(v) In all cases where an order of the Supreme Court is declared by this Ordinance to be necessary for the application of monies payable for purchase of lands or compensation it shall be lawful for the Supreme Court in a summary way as to such Court may seem fit to order the distribution thereof or payment of the dividends thereof according to the respective estates titles or interests of the parties

