

GOVERNMENT NOTIFICATION.—No. 292.

His Excellency the Governor has given his assent, in the name and on behalf of the Queen, to the following Ordinance passed by the Legislative Council:—

Ordinance No. 23 of 1889.—*An Ordinance enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, to enable the Governor to resume Crown Lands under lease and to give compensation therefor and for other cognate purposes.*

By Command,

FREDERICK STEWART,
Colonial Secretary.

Colonial Secretary's Office, Hongkong, 24th June, 1889.

No. 23 OF 1889.

An Ordinance enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, to enable the Governor to resume Crown Lands under lease and to give compensation therefor and for other cognate purposes.

Title.

LS G. WILLIAM DES VŒUX.

[24th June, 1889.]

WHEREAS the dwelling houses on certain portions of land under lease from the Crown especially in the City of Victoria are of insanitary construction as regards conditions of air and light and it is expedient that the Governor should be empowered to acquire or resume such lands and buildings compulsorily with a view to the erection of improved houses or dwellings thereon and doubts have arisen whether the resumption of such lands for the purposes aforesaid and for other purposes beneficial to the public of the Colony is within the meaning and intent of the powers of resumption for a public purpose contained in the Crown leases of such lands and it is expedient to remove such doubts and whereas it is expedient that the duty of determining the value of lands resumed for a public purpose and of fixing the compensation to be awarded in respect thereof under Crown leases should be transferred from the Surveyor General to a Board of Arbitrators to be approved for the purpose: Be it enacted by the Governor of Hongkong, with the advice and consent of the Legislative Council thereof, as follows:—

Preamble.

1. This Ordinance may be cited for all purposes as *The Crown Lands Resumption Ordinance, 1889.*

Short title.

2. In this Ordinance unless inconsistent with or repugnant to the context.

Interpretation.

The word *Board* shall mean any Board of Arbitrators appointed from time to time under this Ordinance.

The word *Land* shall mean any Crown land under lease from the Crown or any part or section thereof.

The word *Owner* shall mean the person whose name for the time being is registered in the Land Registry Office of the Colony in respect of any land sought to be resumed under the provisions of this Ordinance or if such person be absent from the Colony or cannot be found or is bankrupt or dead his agent or representative in the Colony or the person entitled for the time being to have his name registered in the said Office in respect of such land or his agent or representative in the Colony.

3. (i.) Whenever the Governor in Council shall decide that the resumption of any land is expedient in the interest of the Public it shall be lawful for the Governor to enter into private negotiations with the owner of any such land or any other person having any proprietary interest therein for the purchase of such land and all the right title and interest therein, and in case of the failure of such negotiation to give written notice that such land will be resumed on the expiration of four months from the publication of such notice, and that thereupon such compensation in respect of such resumption will be paid as may be awarded in the manner hereinafter provided.

Power of resumption.

(ii.) Such notice shall be published in the *Gazette* in English and Chinese and copies thereof shall be affixed upon a conspicuous part of the land to be resumed, and such publication shall be deemed to be notice to the owner and to every person interested in the land or having any right or easement therein.

(iii.) On the expiration of four months as aforesaid the land shall revert to the Crown and all rights of the owner his assigns or representatives or of any other person in or over the land or any part thereof shall absolutely cease.

4. After the expiration of four months as aforesaid a Board shall be appointed to determine the amount of compensation to be paid in respect of such resumption or taking and such Board shall in each case consist of three members and be constituted in manner following, viz.:—

- (1.) The Chairman of the Board shall be such judge of the Supreme Court as the judges may from time to time mutually arrange.
- (2.) The two other members of the Board, shall consist of one member to be nominated by the Governor and the other by the owner of the land resumed provided always that the member nominated by the Governor may be the Surveyor General or any public officer.
- (3.) Notice in writing of the nomination by the Governor of a member of the board shall be forthwith given to the owner by publication in the *Gazette*, and if he shall not nominate a member of the Board within seven days from the date of such publication it shall be lawful for the Chairman to nominate and appoint any person other than a member of the Colonial Civil Service on behalf of such owner.
- (4.) The Governor may also appoint some person to act as clerk to the Board at such remuneration as he may think fit.

5. The Constitution of such Board shall be notified in the *Gazette* and within fourteen days from such notification the Board shall commence its sittings at such time and place as the Chairman may in and by such notification or by any other notification in the *Gazette* appoint.

6. No suit or action shall lie either against the Crown or against any other person for any loss or damage resulting to any person from any resumption of any land as aforesaid but any person claiming compensation whether as owner or otherwise by reason of such resumption shall before the commencement of the sittings of the Board transmit to the clerk of the Board if appointed or if no clerk be appointed to the Colonial Secretary for transmission to the Board a written claim stating the nature of his right or interest in the land and the amount which he seeks to recover.

7. Every claim shall be separately considered and adjudicated upon unless the parties otherwise agree.

8. The Board when constituted shall have the following powers and authorities, viz.:—

- (1.) To determine the compensation to be paid in respect of such resumption or in respect of the extinction of any right or easement caused by such resumption regard being had not only to the value of the land taken and any buildings thereon but also to any damage or injury resulting to the owner of the land resumed by reason of the severance of such land from other land of such owner contiguous thereto, and to award compensation in respect of such resumption or extinction to all persons claiming compensation to whom the Board may find compensation to be due.
- (2.) To award costs in their discretion either for or against the Crown, or for or against any parties claiming compensation, such costs in case of difference to be settled by the Registrar of the Supreme Court.
- (3.) All such powers as are now or may be hereafter vested in the Supreme Court of the Colony or in any Judge thereof on the occasion of any suit or action in respect of the following matters:—
 - (a.) The enforcing the attendance of witnesses and examining them on oath or otherwise as they may think fit.
 - (b.) The compelling the production of any documents.
 - (c.) The punishing persons guilty of contempt.
 - (d.) The ordering an inspection of premises.
 - (e.) To enter and view any premises.

Constitution
of Board.

Notification of
Constitution
of Board.

No suit to lie
but claims to
be sent in
writing to the
Board.

Consideration
of claims.

Powers of
Board.

9. Every notice under the hand of the Chairman of the Board may be substituted for and shall be equivalent to any form of process capable of being issued in any suit or action for enforcing the attendance of witnesses, or compelling the production of documents; and any warrant of committal to prison issued for the purpose of enforcing any such powers as aforesaid shall be under the hand of the Chairman and shall not authorise the imprisonment of any offender for a period exceeding three months; and every notice order or warrant of the Board may be served and executed in the same manner as notices orders and warrants of the Supreme Court may be served and executed under the procedure for the time being in force relating to civil suits.

Notices by Board.

10. If in the discharge of the duties devolving upon the Board there shall occur a difference of opinion between the members, the decision of any two of them shall have the same force and effect, as if all the members had concurred therein and any decision arrived at by the Board or a majority thereof shall not be subject to appeal and shall be final as regards all parties interested and no award of compensation made with respect to the resumption of any land shall be liable to be set aside for irregularity or error in matter of form.

No appeal from decision of majority.

11. During the pendency of any proceedings before the Board if any member of the Board shall from any cause be or become unable to act, his place if he be a judge shall be filled by another judge or if he be a person appointed by the Governor or owner by some other person appointed by the Governor or owner as the case may require.

Vacancies on Board.

12. All lands resumed under the provisions of this Ordinance may be demised and granted by the Governor upon such terms and conditions and at such price whether by way of rent, premium, or otherwise and either by public auction or private contract as the Governor may determine.

Resumt of lands, &c.

13. All sums of money awarded and all costs against the Crown if any shall as soon as practicable after the award is published be paid by the Governor out of the Public Revenues, and all sums awarded exclusive of costs shall bear interest at the rate of eight dollars per cent from the date of the resumption of the land until payment.

Compensation to bear interest.

14. In any notice to resume any land it shall be sufficient to state that such land is required for a public purpose without stating the particular public purpose for which the land is required and a notice containing such statement shall be conclusive evidence that the land resumed is resumed for a public purpose.

Notice of resumption to be conclusive evidence of a resumption for a public purpose.

15. Whenever the buildings or dwellings on any land are of insanitary construction as regards conditions of light and air, the Governor may, notwithstanding any of the powers of resumption herein contained or prior to the exercise of any such powers, permit the owner of such buildings or dwellings to reconstruct or rebuild the same or any part thereof upon such terms and conditions and subject to such security being given for the proper carrying out of such reconstruction or rebuilding as the Governor may in his discretion think fit.

Arrangement with owner to reconstruct buildings.

16. Any Board constituted under this Ordinance may make such rules and regulations as may be deemed necessary for the conduct of all proceedings before it.

Power for Board to regulate proceedings.

17. This Ordinance shall not come into operation unless and until the Officer Administering the Government notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same and thereafter it shall come into operation upon such day as the Officer Administering the Government shall notify by the same or any other Proclamation.

Suspending Clause.

Passed the Legislative Council of Hongkong, this 18th day of June, 1889.

ARATHOON SETH,
Clerk of Councils.

Assented to by His Excellency the Governor, the 24th day of June, 1889.

FREDERICK STEWART,
Colonial Secretary.