

WESTERN AUSTRALIA

ANNO SEPTIMO DECIMO

VICTORIÆ REGINÆ

No. 6

An Ordinance to regulate the mode of awarding Compensations for Town Lands resumed by the Governor, on behalf of the Crown. [*Assented to 17th May, 1854.*]

Preamble
*See now 42 Vic.
No. 31, sec. 15*

WHEREAS by the terms of Crown Grants now in use of lands on town sites, the Governor is empowered to resume such portions of land as he may deem necessary for making roads, canals, bridges, towing paths or other works of public utility or convenience; and whereas doubts have arisen as to the compensation which can be claimed for land resumed under such power; and whereas it is expedient that the amount of such compensation be fixed by impartial persons, duly authorised to make the necessary inquiries: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, that from and after the first day of June, 1854, before land situated on town sites be resumed, compensation therefor be tendered and awarded in the following manner and form:—

Notice to party

2. That in all cases of any intended resumption as aforesaid the Colonial Secretary shall cause a notice in or to the effect of the following form, to be published thrice consecutively in the 'Government Gazette' of the said Colony, and a copy thereof to be affixed on some portion of the land intended to be resumed:—

To all persons interested in (*here designate the allotment*) TAKE NOTICE—That the Governor, by and with the advice of the Executive Council, deems it necessary for (*here describe the purpose intended*) to resume the undermentioned portion of the land above designated (*here describe minutely the land to be resumed*), a plan of which is to be seen in the office, and the sum of _____ is hereby tendered in compensation therefor. You are requested to notify to me in writing within _____ days from the date hereof, whether you accept this tender or claim a larger amount, otherwise

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the lands above described will be resumed on behalf of the Crown on the terms herein proposed. You will not be entitled to any compensation for or in respect of any improvement of such lands commenced or continued after this notice. Dated _____ day of _____

(Signed) A.B.,
Colonial Secretary.

3. That in case such notification so required by the Colonial Secretary by notice aforesaid, be not duly given within the number of days specified in such notice, it shall be lawful for the Governor to resume on behalf of the Crown, the land referred to by such notice on the terms tendered therein, and the person or persons interested in such land shall not be entitled to any further compensation. If not complied with Government may resume

4. In case such compensation so tendered be refused, the Governor shall nominate and appoint one Commissioner, the person or persons interested as aforesaid in such land shall appoint a second, and these two shall choose and name a third, which three Commissioners shall constitute a Board, the award of a majority of whom shall be final. Three Commissioners

5. That the person or person interested as aforesaid, or his or their representatives, and the Crown Solicitor or other person appointed on behalf of the Government, shall respectively be allowed to address the Board and adduce any oral or documentary evidence.

6. That this Board shall appoint one of their number as Chairman, and before proceeding to business each of the three Commissioners shall make the following declaration :— Chairman

I, A.B., do solemnly and sincerely declare that I will hear without favour or partiality all admissible evidence tendered in this matter, and that I will deliver my true and faithful judgment according to such evidence.

7. That the Chairman of such Board shall administer to every witness produced before him an oath or affirmation to the following effect :—

The evidence you give before this Board in this matter, shall be given without fear, favour or affection to either party, and therein you shall speak the truth, the whole truth and nothing but the truth, so help you God. Oath

8. That the award of such Board be forwarded to the Colonial Secretary, signed by all the members of the Board or a majority thereof. Award

9. That in the event of the Commissioners being so divided in opinion that they make no definite award, the sum tendered in the original notice shall be deemed amply sufficient and legally established and paid to the parties as aforesaid. If divided, original tender paid

10. That in the event of such Board awarding a sum not greater than the amount tendered in the notice, or not awarding as aforesaid any definite sum, the person or persons refusing the amount so tendered, shall pay his or their own costs and one half the entire expenses of the Commission. Costs

11. That should the said Board award a sum exceeding the amount tendered in the first instance in the notice as aforesaid, all such costs When the Government pay costs

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shall be defrayed by the Government, being first taxed if required by the Registrar Clerk of the Civil Court, according to the scale for the time being in force in such Court.

Government may
waive ;

in such case
costs paid by
Government

Fees to Commis-
sioners

12. That after the award so forwarded to the Colonial Secretary, it shall be lawful for the Governor to resume the land, by proclamation as usual or not, according to his discretion, to be exercised within fourteen days after the receipt by the Colonial Secretary of such award, it being enacted that in all such cases of waiver by the Governor of resumption, the entire expenses of the inquiry shall be defrayed by the Government.

13. That the fees to be paid to each Commissioner shall be one guinea per day for loss time and maintenance and mileage for travelling expenses at the rate of one shilling a mile one way.

CHARLES FITZGERALD,
GOVERNOR AND COMMANDER-IN-CHIEF.
