

Hon. Mr. Seddon.

## BETTERMENTS.

### ANALYSIS.

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### A BILL INTITULED

AN ACT to impose on Lands traversed by Railways constructed at the Public Expense a Charge in Aid of such Construction. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Betterments Act, 1894." Short Title.

2. (1.) In this Act, if not inconsistent with the context,— Interpretation.

"Commissioner" means the Commissioner of Taxes for the time being appointed under "The Land and Income Assessment Act, 1891":

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No. 12—1.

- “ Crown lands ” means all lands the property of the Crown in New Zealand :
- “ Local authority ” means any Council, Board, Trustees, Commissioners, or persons owning or in whom are vested any private lands as herein defined : 5
- “ Native lands ” means all lands or interests in lands the property of aboriginal natives of the Colony of New Zealand (including in the term “ aboriginal natives ” all half-castes or their descendants by Natives), whether held under their own customs and usages or otherwise howsoever : 10
- “ Owner ” of Crown lands means the Minister of Lands for the time being, by his official title :
- “ Owner ” of private lands means the person, company, corporation, or local authority entitled for the time being to receive the rack-rent thereof ; and, where there is no such person, 15 means the trustees of any property in reversion or expectancy, and includes the guardian, committee, or trustees of any person under legal disability :
- “ Person ” includes a company :
- “ Public railway ” or “ railway ” means any railway or section 20 of a railway constructed or acquired by the Crown or the Governor by means of the public moneys of the colony :
- “ Private lands ” means all lands not being Crown lands or Native lands as herein defined, and includes all Crown lands granted to or vested in any persons, corporation, or 25 local authority as reserves or for endowments :
- “ Said Act ” means “ The Land and Income Assessment Act, 1891,” and includes all Acts passed in amendment thereof :

(2.) Words in this Act relating to a railway, district, authority, officer, owner, occupier, person, or lands shall be construed distributively as referring to such railway, district, authority, officer, owner, occupier, or person, or to the particular lands to which or to whom the provision is applicable. 30

Acts incorporated.

3. “ The Rating Act, 1876,” and “ The Rating Act, 1882,” as to the districts wherein they are respectively in force, and “ The Land and Income Assessment Act, 1891,” and all Acts passed in amendment thereof respectively, are hereby incorporated with this Act and shall be read and construed with this Act, and the several provisions thereof respectively necessary to the operation of this Act shall apply accordingly ; and all regulations made under the aforesaid Acts or 40 either of them shall, as far as applicable, apply to all matters under this Act.

For the purposes of this Act, the aforesaid Acts and regulations shall be read with the necessary changes of language to adapt the same to the said purposes. 45

Governor to make regulations, &c.

4. The Governor in Council may, from time to time, make, alter, and revoke regulations, either applicable generally or to meet particular cases, which may be necessary to carry out the administration of this Act, and for prescribing the forms of any instruments or documents necessary to such administration. 50

All such regulations shall be gazetted, and when so gazetted shall have the force of law.

5. All lands whatever which are situate within twenty miles from the middle line of a public railway, or within a radius of twenty miles beyond the terminal point of any such railway, or of any section of such railway, commenced or constructed after the passing of this Act, with the following exceptions, shall be subject to the provisions of this Act:—

Lands subject to Act.

- (1.) Lands occupied by churches, chapels, or cemeteries other than cemeteries owned and conducted by private persons or companies for pecuniary gain or profit: Exceptions.
- 10 (2.) Lands occupied by Government schools, or any other schools which are not carried on for pecuniary gain or profit, including playgrounds and schoolmasters' residences and grounds occupied therewith, whether as a garden or paddock or otherwise, and actually used for these purposes:
- 15 (3.) Lands occupied by and used in connection with any museum, lunatic asylum, prison, hospital, or charitable institution; any quarantine station, or lighthouse:
- (4.) Lands used and occupied as public parks, domains, gardens, or recreation reserves, not including racecourses:
- 20 (5.) Lands on which railways and railway stations are constructed, and buildings that may be connected or used therewith:

CHARGES ON LAND.

6. All lands becoming subject to this Act by the construction of any section of a railway shall, as soon as such section of railway is open for public traffic, be liable, as a contribution towards the cost of the construction of such railway, to an amount equal to one-half of the amount by which such lands have been augmented in value in consequence of such construction; which amount, hereinafter referred to as "the augmented value of lands," shall be ascertained as hereinafter mentioned; and such contribution shall be paid to the Crown by the owners of such lands respectively as hereinafter mentioned.

On opening of railways, lands traversed to be liable to contribution in aid of its construction.

All moneys received under this Act shall be paid by the persons receiving the same respectively into the Public Account to the credit of the Public Works Fund.

All moneys to be paid to Public Works Fund.

7. The augmented value of lands not being Native lands occupied by Natives shall, for the purposes of this Act, be deemed to be,—

Determination of the improved value of lands.

- (1.) The difference between the value of such lands as appearing in the assessment-roll prepared by the Borough or County Council of the district wherein they are situate and in force last prior to the advertising for tenders for the construction of the section of the railway traversing the said lands, and such value as appearing in the like assessment-roll in force prepared as aforesaid first after the opening of such railway for public traffic; or
- (2.) If not appearing in any such assessment-roll the difference between the upset price at which Crown lands of a similar character could be bought at the time when such lands were originally purchased or acquired from the Crown, and the value of such lands as appearing in the assessment-roll prepared by the Borough or County Council of the district wherein they are situate first after the opening of such railway for public traffic.

Public Works Minister to notify and declare lands subject to this Act.

8. As soon as may be after the opening of a section of any railway for public traffic, the Minister for Public Works shall, by notification in the *Gazette*, in general terms define the lands to be affected by the opening of such railway, and shall declare the said lands to be subject to this Act.

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Commissioner of Taxes to make assessment of lands subject to Act.

9. On the requisition of the Minister for Public Works the Commissioner of Taxes shall prepare, from the assessment-rolls of the local authorities of the various districts traversed by a railway, a separate assessment-roll of all lands within a district notified as aforesaid as being subject to this Act, in the same manner as if such district were a rating district under the administration of a local authority; and each such roll shall show separately the amount of contribution for which each owner of such land is liable respectively.

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The aforesaid Commissioner shall send a complete copy of every such assessment-roll to the Minister for Public Works.

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Landowner to elect to pay contribution, or charge his land, paying interest until redemption.

10. Every owner of private lands liable to pay any contribution under this Act shall have the election to pay the same on demand, or to allow the amount to remain as a debt due to the Crown charged by way of lien on his land, paying interest on such amount at the rate of five pounds per centum per annum until the charge is redeemed, which may be done at any time either by one gross payment or by instalments.

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Every such person shall be required to make such election upon receiving notice of assessment under this Act.

On alienation of land charge to be redeemed.

11. Upon the first sale of any lands subject to this Act every charge imposed upon the lands to be sold shall be paid in full, and no conveyance or instrument of transfer shall be registered or filed unless accompanied by a receipt from the proper officer that every such charge is paid.

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Apportionment of charge when land is subdivided, and part sold.

12. Upon any proposed sale of a portion of any land charged under this Act the said Commissioner shall, on request of the owner of such land, apportion the charge upon the whole land between the land proposed to be sold and that to be retained, and on completion of the sale, if the charge in respect of the land to be sold is paid, shall release the lien registered upon the land, and register as aforesaid a lien upon so much of the land as remains the property of the original owner.

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Trustees, &c., to have powers of absolute owners.

13. All executors and administrators, trustees, guardians, and committees shall respectively have the same rights and powers of making elections, and of charging lands, and of paying contributions and moneys for interest, and taking all necessary proceedings or doing all necessary things under this Act as their respective *cestuis que* trusts, wards, lunatics, or idiots would have had if free from disability, or as such trustees, executors, or administrators respectively would have had if the estates or interests of which they shall be such trustees, or which shall be vested in them as such executors or administrators, had been vested in them in their own right.

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And no guardian, committee, trustee, executor, or administrator shall be in anywise responsible for anything lawfully done by him under this Act.

Charge on land not to bar mortgage on sale.

14. No charge on land made by virtue of this Act shall be deemed such an incumbrance as shall preclude a trustee of money, with power to invest the same in the purchase of land or on mortgage,

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from investing it in a purchase or upon a mortgage of the land so charged.

15. All amounts of contribution under this Act and interest due thereon shall be collected and paid under the said Act in the same manner as the land-tax is collected and paid; and all amounts of interest or interest remaining unpaid may be recovered as if the same were land-tax in arrear.

Recovery of contribution and interest to be as in the case of land-tax.

*As to Private Lands.*

16. Upon the completion of the assessment-roll under this Act the Commissioner shall cause to be given to each person whose name appears thereon as owner of any private lands subject to this Act a notice, in manner provided by section nineteen of the said Act, of the making such assessment.

Notice of assessment to be served on land-owners.

17. Each notice shall require the person to whom it is sent to pay the amount assessed within a certain time, or to make his election to pay interest on the amount demanded and to redeem the principal sum at a future time.

Notice to require owner to elect as to payment of contribution or to charge the land.

18. When the aforesaid Commissioner has received notice from any owner that he elects to have the amount of contribution assessed on any lands charged thereon as provided in section ten, he shall cause a notice of lien, in the prescribed form, to be registered in the Registry of Deeds, or to be filed in the office of the District Land Registrar in the district where such lands are situate.

Lien may be registered against land.

19. The effect of the registry or filing of any such lien shall be to create a lien upon and have a precedence of all claims against the land in respect whereof such charge shall be payable for the amount of such charge.

Effect of lien.

20. The Commissioner shall, on the registry of any such lien as aforesaid, forthwith give notice of the making of an absolute charge on the lands to the owner thereof, and in such notice shall require such owner to pay interest on the amount charged by equal half-yearly payments in advance, the first of which payments shall be deemed to have become due on the day of registering the lien on the land.

Commissioner to give notice to owner of absolute charge on land, and demand interest.

*As to Crown Lands.*

21. The Commissioner shall send to the Minister of Lands a notice of the assessment made of Crown lands appearing on any assessment-roll prepared under this Act, in the same manner as notices are sent to owners of private lands; and the said Commissioner shall send an extract from such notice of all the Crown lands in the various districts appearing on such roll to the Commissioner of Crown Lands of the land district wherein such lands respectively are situate.

Commissioner to give Minister of Lands notice of assessments, and also to Commissioner of Crown Lands.

22. Occupiers of Crown lands shall be liable under this Act in manner following:—

Liability of present occupiers of Crown lands under lease or license to contribution under this Act.

- (1.) Holders of leases of Crown lands in perpetuity, or for twenty-one years and upwards with right of renewal; or
- (2.) Occupiers of Crown lands with a right of purchase, or on the system of deferred-payments, or on the homestead system, or on any conditions whereby they become entitled to the fee-simple of such lands—

shall be subject to this Act in respect of the lands in their occupation or holding as if they were the owners of such land. And

- (3.) Occupiers of pastoral lands of the Crown under lease or license for depasturing purposes ; or  
 (4.) Occupiers of Crown lands under lease or license for any term not exceeding twenty-one years, without covenant of renewal—

shall be subject to this Act as if the amount assessed on the lands in their occupation had been charged upon such lands, and shall pay interest on such amount in manner as provided by this Act in the case where the owner of private lands has elected to allow a contribution under this Act to be charged upon his land.

The Commissioner shall serve notices of assessment upon all persons mentioned in the first two subsections of this section in the same manner as such notices are served upon owners of private lands ; and shall serve notices on the persons mentioned in the last two subsections in manner as a notice of an absolute charge with demand for payment of interest is made upon owners of private lands.

*As to Native Lands.*

Native lands which have passed Native Land Court to be assessed as private lands.

23. All Native lands the title to which has been determined by the Native Land Court shall be deemed to be private lands for the purposes of this Act, and shall be liable to assessment and taxation in like manner.

Occupiers of Native lands which have not passed the Native Land Court to be liable like occupiers of Crown lands.

24. All occupiers, other than Maoris, of Native lands the title to which has not been determined by the Native Land Court shall be liable to assessment and taxation in like manner as occupiers of Crown lands under lease or license for any term not exceeding twenty-one years without covenant of renewal are made liable for assessments and taxation under section *twenty-two* of this Act.

Native lands which have not passed Native Land Court to be assessed by the Commissioner of Taxes.

25. All Native lands becoming subject to this Act the title to which has not been determined by the Native Land Court, and of which there is no occupier other than Maoris, shall be assessed from time to time by the Commissioner according to blocks, as he shall think fit, belonging to or mostly to the same owners, at an average valuation of the whole block.

- (1.) The first valuation of the said lands shall be made, if no other valuation of such lands then exists, at the time of advertising for tenders for the construction of any railway or section of a railway traversing the said lands, and the next valuation thereof shall be made as soon as may be after the notification in the *Gazette* of the said lands being subject to this Act, and the difference between such two valuations shall be deemed to be the augmented value of the said lands, upon which the Commissioner shall assess the amount of contribution to be paid to the Crown by the Native owners of such lands respectively.
- (2.) Upon the making of such assessment, the Commissioner shall cause a notice to be published in the *Gazette* and in the *Kahiti*, in the Maori language, requiring the owners of the said lands to pay the amount of the contribution assessed within a certain time, and giving notice that if not then paid, the amount will be charged to the owners as a debt due to the Crown bearing interest at the rate of five pounds per centum per annum from the aforesaid time for a period of five years, and if not paid at the expiration of such five

years, that the Governor will take so much of their lands in payment as shall be equivalent to the amount of the said debt.

26. If the amount of the contribution assessed upon any Native lands mentioned in the *last preceding* section is not paid when required, the Native Land Court, on the application of the Commissioner, may make an order in his favour for payment of the amount of the contribution by the Native owners of the land.

Contribution may be charged on land for five years.

Such order shall have the effect of a mortgage in favour of the Commissioner of the estate and interest of such Natives in the lands in respect whereof the contribution is due, and shall be deemed to be a mortgage under the Land Transfer Act and entitled to registration accordingly, and the money intended to be secured by any such order shall be deemed to be due at the end of five years from the making of the order, and not earlier, and shall carry interest on the sum secured by it at the rate of five pounds per centum per annum.

27. If at the expiration of the aforesaid term of five years the whole amount of the contribution, with interest as aforesaid, be not paid, the Commissioner may apply to the Native Land Court for an order of partition of so much of the land in respect whereof the contribution is unpaid as shall, according to the valuation of such lands as made by the Commissioner, be equivalent to the whole amount of such unpaid contribution and interest; and the said Court may make an order of partition accordingly, and such order of the Court thereon shall be deemed to vest the land so partitioned absolutely in Her Majesty and her heirs in fee-simple, discharged from all Native title thereto whatsoever.

If not then paid, Court may order partition to Her Majesty of land in payment.