

Mr. McCallum.

BETTERMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to secure to the Crown One-half of the Increased Value placed upon certain Properties by Reason of the Construction and Opening of Government Railway-lines through or in Proximity to such Properties. Title.

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WHEREAS by section sixty-nine of the Public Works Act, 1908, it is enacted that, in determining the amount of compensation to be awarded under the provisions of that Act, the Compensation Court shall take into account, by way of deduction from the compensation, any increase in the value of the land of the claimant likely to be caused by the execution of the works: And whereas it is inequitable to the public and the owners of freehold not served or benefited by railway-lines that those owners of large freehold properties who are materially benefited by the construction of public lines of railway through or in proximity to their respective freehold properties should make no contribution in respect of the enhancement in value derived by their lands through the execution of the work of building and offering for public use such lines of railway: And whereas it is desirable to place matters on a more equitable basis: Preamble.

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

1. This Act may be cited as the Betterment Act, 1913.
2. In this Act, if not inconsistent with the context,—
  - “The said Act” means the Public Works Act, 1908:
  - “Minister” means the Minister of Public Works appointed under the said Act.

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Short Title.  
Interpretation.

Landowners to pay compensation for increase in value derived from opening and public use of railway.

3. Where, after the coming into operation of this Act, the Minister shall open for public use any new line of railway, then the owners, lessees, and occupiers of all lands adjacent to the said line of railway and all owners, lessees, and occupiers of lands in proximity to such line of railway benefited or enhanced in value by reason of the opening of such line of railway to the public use shall pay to the Minister, by way of compensation or contribution, such sums of money as shall represent *one-half* the increase in value of such lands or their interests in such lands respectively likely to be caused by the opening and public use of such line of railway.

Application of Part III of the Public Works Act, 1908.

4. (1.) The several amounts to be paid to the Minister as aforesaid may be fixed by agreement between the Minister and the respective landholders before or after the opening of the railway-line for public use, and an agreement entered into fixing the method of payment and the security for the same :

Provided that if for any reason no such agreement has been entered into, then the said amounts to be paid to the Minister shall be ascertained in manner provided by Part III of the said Act, or in a manner as near thereto as in the opinion of the Compensation Court set up under the present Act and that Act the circumstances of each case will admit, and the provisions of the said Part III shall, *mutatis mutandis*, be deemed incorporated in this Act, but so that the Minister shall be the claimant and the several landholders affected be the respondents.

(2.) Claims for compensation or contributions in respect of such enhanced value may be in or to the effect of the form given in the *First* Schedule.

Not to apply to owners of £2,000 unimproved value and under.

5. Nothing in this Act shall be deemed to apply to any holder of land whose property apart from its improvements does not exceed *two* thousand pounds in value.

President of Compensation Court to decide who are owners or holders of lands, &c.

6. For the purpose of ascertaining and awarding compensation under this Act, the President of the said Compensation Court shall have power to determine who are the owners or holders of the lands, estates, or interests in respect of which compensation is claimed by the Minister ; or he may, if he thinks fit, state a case for the decision of the Supreme Court thereon ; and such determination or decision shall be followed by the Compensation Court on making its award.

Claims to be made within five years.

7. Claims for compensation under this Act shall be made within five years from the execution of the works out of which they arise, and not afterwards.

Awards of Compensation Court to be final.

8. All findings and awards of the Compensation Court set up under this Act shall be final on all questions lawfully coming before it.

Respondent may pay compensation by instalments.

9. If any respondent shall desire to pay his compensation, with interest at the rate of five pounds per centum per annum, in equal half-yearly instalments extending over a period of twenty years, and of such his desire shall give notice in writing to the Minister within one calendar month after the making of the award, and if such respondent shall sign and deliver to the Minister a memorandum of charge upon the estate or interests forming the subject of the compensation claim made against him, in the form given in the *Second* Schedule or to the like effect, and shall pay the costs of the prepara-

tion and completion of the said instrument, then, and in every such case, such respondent shall have the right to pay such compensation by instalments as aforesaid. Such memorandum of charge shall operate as a first charge upon the said estate or interest of the said  
 5 respondent, ranking in priority to all estates, incumbrances, and interests created by him or any of his predecessors in title to his said estate or interest, and may be registered without fee in the Deeds Register or Land Registry Office as the case may be:

10 Provided that in default of the notice referred to in this section and the preparation and completion within one month of the date of the giving of such notice of the said instrument, then, and in every such case, the amount of the said compensation or contribution shall be a debt due to the Crown and be recoverable  
 15 accordingly, and, until payment, shall remain charged by memorial to be registered by the Minister as a first charge upon the estate or interest of the respondent in the same manner as the said memorial of charge would have been registered had the same been completed as aforesaid.

20 10. Any respondent who shall have given a memorandum of charge as provided by section *nine* hereof shall be entitled to receive a release from such charge upon paying or having paid to the Minister the amount of compensation in respect of which the charge was given, together with interest thereon at the rate of five pounds per centum per annum, calculated from the date when such  
 25 compensation first became due down to the date of payment.

Release of charge.

11. A receipt signed by the Minister endorsed on any such memorandum of charge, and expressed to be in full for all moneys secured thereby, shall vacate such charge.

Receipt by Minister.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

FORM OF CLAIM TO COMPENSATION OR CONTRIBUTION.

*Under the Authority of the Betterment Act, 1913, and the Public Works Act, 1908.*

To \_\_\_\_\_, of \_\_\_\_\_, owner of an estate or interest in fee-simple [or as tenant for life, or as leaseholder, or as the case may be] in the land described below.

WHEREAS the Minister of Public Works has opened for public use a line of railway from \_\_\_\_\_ to \_\_\_\_\_ whereby the value of the said lands described below, which adjoin or are in the neighbourhood of the said line of railway, and in which you are interested as aforesaid, is likely to be increased:

This is to give you notice that the Minister of Public Works claims from you the sum of £ \_\_\_\_\_ as compensation or contribution for the said increase in value of the said lands.

[Description of lands.]

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, Minister of Public Works.

## SECOND SCHEDULE.

## FORM OF CHARGE.

I, the undersigned \_\_\_\_\_, of \_\_\_\_\_, do hereby, in pursuance of the Betterment Act, 1913, charge my estate or interest [*Here describe same*] in [*Here describe land*] with the payment to the Honourable the Minister of Public Works of [*Number*] equal half-yearly payments of £ \_\_\_\_\_ each, payable on the last days of the months of March and September [*or as the case may be*] in each year, the first payment to be made on the last day of the month of \_\_\_\_\_, 19 \_\_\_\_\_; such charge to be a first charge upon my said estate or interest in priority to all estates, incumbrances, and interests created by me or any of my predecessors in title, as provided by the said Act; and I, the said \_\_\_\_\_, do hereby covenant with the said Minister representing His Majesty the King to pay to the said Minister the said several instalments on the respective dates aforesaid.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Signed by the said \_\_\_\_\_ in the presence of— \_\_\_\_\_.