

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE, HOUSE OF REPRESENTATIVES, 27TH AUGUST, 1902.]

Mr. Hogg.

MASTERTON BOROUGH BETTERMENT.

[LOCAL BILL.]

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Owners on both side of street to pay compensation. 4. Mode of ascertaining amount of compensation to be paid to Corporation. 5. Different claims for compensation may be heard together.</p>	<p>6. Court may determine who are owners of the land. 7. Claim to be made within one year. 8. Findings of Court to be final. 9. Award may be registered against land. 10. Compensation payable by instalments. 11. Instalments may be repaid in one sum. 12. Receipt by Town Clerk. 13. Application of compensation Schedules.</p>
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A BILL INTITULED

AN ACT to require the Owners of Land lying adjacent to Public Streets widened by the Masterton Borough Council to bear Part of the Costs of the Execution of the Works. Title.

5 WHEREAS by section sixty-eight of "The Public Works Act, 1894," 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 claimant's lands likely to be
10 caused by the execution of the works: And whereas in cases of street-widening works where the additional land required is taken on one side only of the street the owners from whom the land is taken contribute under the said section sixty-eight towards the costs of the work, while the owners on the opposite side make no contribution in
15 respect of the enhancement in value derived by their lands through the execution of the work: And whereas this is inequitable:

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

20 1. The Short Title of this Act is "The Masterton Borough Betterment Act, 1902." Short Title.

2. In this Act, if not inconsistent with the context,—
" Borough " means the Borough of Masterton and includes all areas to be hereafter added to the same: Interpretation.

25 " Corporation " means the Mayor, Councillors, and Burgesses of the Borough of Masterton:

" Council " means the Council of the Borough of Masterton.

Owners on both
side of street to
pay compensation.

3. Where the Council shall, after the coming into operation of this Act, widen any street in the borough or widen any part of the length of any such street and shall take or purchase or otherwise acquire the land required for such purpose from one side only of the street, then and in every such case the several owners of the respective lands fronting or having any frontage to the opposite side of the street shall pay to the Corporation by way of compensation such sums of money as shall represent the increase in the value of such lands respectively likely to be caused by the execution of the work of widening the said street or part of street.

Mode of ascertain-
ing amount of
compensation to be
paid to Corporation.

4. The several amounts to be paid to the Corporation as aforesaid shall be ascertained in the manner provided by Part III. of "The Public Works Act, 1894," or in a manner as near thereto as, in the opinion of the Compensation Court set up under this 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 Corporation shall be the claimant and the several landowners affected be the respondents. ~~and the Judge of the District Court of Wairarapa shall be the President of the Court.~~ Claims for compensation under this Act may be in or to the effect of the form given in the *First* Schedule.

Different claims for
compensation may
be heard together.

5. The said Compensation Court shall have power, on the application of any party, to order that all or any claims for compensation under this Act in respect of any parcel of land in which several persons shall have qualified or partial interests shall be heard and determined together; and any claims whatever for compensation under this Act may, with the consent of all parties, be heard and determined together. Where the said Court hears and determines several compensation claims together, it shall have power to apportion the compensation awarded against the several respondents in such portions and manner as to the Court shall seem just.

Court may deter-
mine who are
owners of the land.

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 of the lands, estates, and interests in respect of which compensation is claimed by the Corporation, 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.

Claim to be made
within one year.

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

Findings of 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, and the Court shall make its award in writing, and the President shall deliver or transmit the same to the Clerk of the said District Court of Wairarapa, to be by him filed in the said District Court, and such filing shall have the effect of a judgment of the Supreme Court.

Award may be
registered against
land.

9. A copy of such award, certified as such by the Clerk of the District Court of Wairarapa, may be registered without fee in the Deeds Register or Lands Registry Office, as the case may be, and no further instrument shall be registered against such land until the amount payable to the claimant thereunder shall be satisfied

and paid, or a memorandum of charge as hereinafter provided shall be registered against the land.

10. If any respondent shall desire to pay his compensation by instalments as hereinbefore mentioned, he may do so provided the written consent of the Council be first had and obtained; such compensation shall be paid, with interest at the rate of five pounds per centum per annum, in equal half-yearly instalments extending over a period of twenty-one years, and of such his desire shall give notice in writing to the Town Clerk of the Corporation within one calendar month after the making of the award; and if such respondent shall at the request of the said Town Clerk sign and deliver to him a memorandum of charge upon the estate or interest forming the subject of the compensation claim made against such respondent in the form given in the *Second* Schedule, or to the like effect, and shall pay the costs of the preparation and completion of the said instrument, then and in every such case the 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 respondent, ranking in priority to all estates, encumbrances, 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.

Compensation payable by instalments.

11. The Corporation shall at any time receive the whole of the unpaid instalments secured by any such memorandum of charge as aforesaid, and shall make a rebate of interest in respect of such earlier payment.

Instalments may be repaid in one sum.

12. A receipt signed by the Town Clerk indorsed on any such memorandum of charge, and expressed to be in full for all moneys secured thereby, shall vacate such charge.

Receipt by Town Clerk.

New clause.

13. The moneys received by the Corporation by virtue of this Act shall be applied by it for the purpose of carrying out the street-widening work in respect of which the same moneys are so received, and for no other purpose.

Application of compensation.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

FORM OF CLAIM TO COMPENSATION UNDER THE AUTHORITY OF "THE MASTERTON BOROUGH BETTERMENT ACT, 1902," AND PART III. OF "THE PUBLIC WORKS ACT, 1894."

To _____, of _____, owner of an estate or interest in fee-simple (or as tenant for life or as a leaseholder, or as the case may be) in the land described below.

WHEREAS the Mayor, Councillors, and Burgesses of the Borough of Masterton (hereinafter called "the Corporation") have widened _____ Street in the Borough of Masterton whereby the value of the said lands described below, which front the said street and in which you are interested as aforesaid, is likely to be increased:

This is to give you notice that the Corporation claims from you the sum of £ _____ as compensation for the said increased value of the said lands.

Description of Lands.

Given under my hand, this _____ day of _____, 190____, A. B., Town Clerk.

SECOND SCHEDULE.

FORM OF CHARGE.

I, THE undersigned , of , do hereby, in pursuance of "The Masterton Borough Betterment Act, 1902," charge my estate or interest as [*Here describe the same*] in [*Here describe the land*] with the payment to the Mayor, Councillors, and Burgesses of the Borough of Masterton (hereinafter called "the Corporation") of [*Number*] equal half-yearly payments of £ , each payable on the day of the months of in each year, the first payment to be made on the day of , 190 ; such charge to be a first charge upon my said estate and interest in priority to all estates, encumbrances, and interests created by me or any of my predecessors in title as provided by the said Act: And I, the said , hereby covenant with the Corporation to pay to the Corporation the said several instalments on the respective dates aforesaid.

Given under my hand, this day of , 190 .

Signed by the said C. D. in the presence of—E. F., [*Occupation and residence*].

C. D.