

New Zealand.



ANALYSIS.

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1902, No. 2.—*Local.*

AN ACT to require the Owners of Lands lying adjacent to Public Streets widened and the Owners of Lands in the Neighbourhood of Public Streets made by the Hawera Borough Council to bear Part of the Cost of such Widening and Making as aforesaid.

[13th September, 1902.]

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 value of the claimant's land likely to be 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 this land is taken contribute under the said section sixty-eight towards the cost of the work, while the owners on the opposite side make no contribution in respect of the enhancement in value derived by their lands through the execution of the work: And whereas in the case of new roads for which land is taken the owners of lands in the neighbourhood, but not fronting thereon, which are materially benefited by the construction of such road make no contribution in respect of the enhancement in value derived by their lands through the execution of the work: And whereas it is desirable to place matters on a more equitable basis:

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

- Short Title. 1. The Short Title of this Act is "The Hawera Borough Betterment Act, 1902."
- Interpretation. 2. In this Act, if not inconsistent with the context,—
 "Borough" means the Borough of Hawera, and includes all areas to be thereafter added to the same:
 "Corporation" means the Mayor, Councillors, and Burgesses of the Borough of Hawera:
 "Council" means the Council of the Borough of Hawera:
 "Neighbourhood" means not only the immediate vicinity, but extends for such distance as the Compensation Court may deem equitable under the circumstances of the case.
- Landowners to pay compensation for increase in value derived from widening street. 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.
- Landowners to pay compensation for increase in value derived from making new street. 4. Where, after the coming into operation of this Act, the Council shall take, purchase, or acquire lands for the purpose of a new street, and shall make such new street, then the owners of all lands in the neighbourhood of the new 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 making the said new street.
- Application of Part III. of "The Public Works Act, 1894." 5. The several amounts to be paid to the Corporation as afore-said shall be ascertained in 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. Claims for compensation under this Act may be in or to the effect of the form given in the First Schedule.
- Several claims may be heard together. 6. 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 have qualified or partial interests shall be heard and determined together; and any claims whatever for compensation under this Act may, with the consent in writing 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 proportions and manner as to the Court shall seem just.
- Compensation Court may ascertain owners. 7. 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, or

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.

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

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

10. If any respondent shall desire to pay his compensation, with interest at the rate of four pounds ten shillings 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 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 interests forming the subject of the compensation claim made against him 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 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 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 may be paid by instalments.

11. Any respondent who shall have given a memorandum of charge as provided by section ten hereof shall be entitled to receive a release from such charge upon paying or having paid to the Corporation the amount of compensation in respect of which the charge was given, together with interest thereon after the rate of four pounds ten shillings per centum per annum calculated from the date when such compensation first became due down to the date of payment. Instalments may be paid off before due.

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

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 or the making of the new street 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 Hawera 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 leaseholder, or as the case may be] in the land described below.

WHEREAS the Mayor, Councillors, and Burgesses of the Borough of Hawera (hereinafter called "the Corporation") have widened _____ Street, in the Borough of Hawera [or have made a new street—namely, _____ Street], whereby the value of the said lands described below, which front on or are in the immediate neighbourhood of 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 increase in value of the said lands.

Description of lands:

Given under my hand and seal, this _____ day of _____, 190 _____.
_____, Town Clerk.

SECOND SCHEDULE.

FORM OF CHARGE.

I, the undersigned, _____, of _____, do hereby, in pursuance of "The Hawera Borough Betterment Act, 1902," charge my estate or interest as [*Here describe same*] in [*Here describe land*] with the payment to the Mayor, Councillors, and Burgesses of the Borough of Hawera (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 and seal, this _____ day of _____, 190 _____.

Signed by the said _____ in the presence of— _____