

(Rough Draft for Consideration Only.)

[CONFIDENTIAL.]

No. , 1930.

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## A BILL

To provide for the assessment and collection of betterment rate upon certain lands and within certain areas; to amend the law relating to the basis of assessment of compensation for lands taken or resumed in certain respects; to amend the Public Works Act, 1912, and certain other Acts; and for purposes connected therewith.

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** (1) This Act may be cited as the "Betterment Act, 1930."

Short title  
and com-  
mencement.

(2)

(3) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided into Parts as follows :—

Division into Parts.

- PART I.—PRELIMINARY.
- PART II.—APPLICATION OF ACT.
- PART III.—COMMISSIONER FOR BETTERMENT.
- PART IV.—BETTERMENT AREA COMMITTEES.
- PART V.—BETTERMENT AREAS.
- PART VI.—ASSESSMENT OF ENHANCEMENT.
- PART VII.—COLLECTION OF BETTERMENT RATE.
- PART VIII.—APPEALS.
- PART IX.—MISCELLANEOUS REGULATIONS, &c.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

Interpretation.

- “ Authorized work ” means any work of railway construction, tramway construction, or of water conservation and irrigation, the construction or carrying out of which is authorised by or under any Act in force at the commencement of this Act or thereafter in force.
- “ Betterment area committee ” means the committee appointed by or under this Act to delimit the boundaries of a betterment area.
- “ Betterment period ” means the period in respect of which betterment rate is levied under this Act.
- “ Commissioner ” means the Commissioner for Betterment appointed under this Act.
- “ Committee ” means a betterment area committee.
- “ Constructing Authority ” means the Minister of the Crown or other authority authorised by or under any Act to construct or carry out an authorised work.

“ Council ”

- “Council” includes the council of a municipality or shire or a county council.
- “Country work” means an authorised work to be carried out elsewhere than in the County of Cumberland or in Newcastle and district.
- “Crown lands” means Crown lands within the meaning of the Crown Lands Constitution Act, 1913.
- “District valuer” means the person who is employed under the Land and Valuation Act, 1916, and for the time being acting as district valuer in the district in which a betterment area is situated, or where there is no person so acting, such person as the Valuer-General may appoint.
- “Enhancement in the value of land” means the amount by which the unimproved capital value of the land is increased during the betterment period by reason of the construction and operation of an authorised work.
- “General Loan Account” means the account kept by the Colonial Treasurer under that name in the Treasury in pursuance of the Audit Act, 1902.
- “Interest” means interest at a rate prescribed by the regulations but not exceeding six per centum per annum.
- “Newcastle and district” means the area described in the First Schedule to this Act, and includes any area which the Governor by proclamation from time to time may add to such area.
- “Original value,” in relation to land, means the unimproved capital value of the land as at the date immediately prior to the commencement of the betterment period, assessed under this Act.
- “Owner,” in relation to land, includes every person who, jointly or severally, whether at law or in equity—
- (a) is entitled to the land for any estate of freehold in possession; or
  - (b)

- (b) is a person to whom the Crown has lawfully contracted to grant the fee simple under the Crown Lands Act; or
- (c) is entitled to receive, or is in receipt of, or, if the land were let to a tenant, would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise:

Provided that the Crown shall be deemed to be the owner of—

- (i) all Crown lands; and
- (ii) all lands vested in a statutory body representing the Crown.

“Owner” includes lessee or occupier.

“Prescribed” means prescribed by this Act or by any regulations made thereunder.

“Proclaimed date of commencement,” in relation to an authorised work, means the date certified by the Constructing Authority as the date of the commencement of the work and notified by proclamation published in the Gazette.

“Proclaimed date of completion,” in relation to an authorised work, means the date certified by the Constructing Authority as the date of the completion of the work and notified by proclamation published in the Gazette.

“Ratable person” is any person liable under this Act to pay betterment rate.

“Registered” means registered in the Office of the Registrar-General.

“Unimproved capital value of land” is the capital sum which the fee simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require assuming that the improvements, if any, thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made.

“Work

“ Work of water conservation and irrigation ” includes work for the provision of water supply for stock and/or domestic purposes.

**4.** (1) The betterment period in respect of an authorised work which was authorised prior to the commencement of this Act, whether under construction at the commencement of this Act or partially completed and utilized or not, or in respect of an authorised work which was referred to the Parliamentary Standing Committee on Public Works prior to such commencement, shall be deemed to commence on the first day of January, one thousand nine hundred and thirty.

Commencement and duration of betterment period.

(2) Save as provided in subsection one of this section, the betterment period in respect of an authorised work shall be deemed to commence upon the date of the commencement of the session during which the latest resolution referring the proposed work to the Parliamentary Standing Committee on Public Works is passed by the Legislative Assembly, or where there is no such resolution upon the date of the commencement of the session in which the Bill to authorise the work is passed by the Legislative Assembly, or where the work is authorised by the Governor under the provisions of the Public Works Act, 1912, upon such date as is fixed by the Governor and is notified by proclamation published in the Gazette.

(3) The betterment period in respect of an authorised work shall be deemed to expire at the end of the five years following the proclaimed date of completion of the authorised work.

PART II.

APPLICATION OF ACT.

**5.** (1) This Act shall apply only in respect of Works in authorised works under construction at the commence-<sup>respect of</sup> ment of this Act or constructed after such commence-<sup>which Act</sup> ment.<sup>applies.</sup>

(2) This Act shall not apply in respect of works Works in the construction of which is authorised by the Sydney<sup>respect of</sup> Harbor Bridge Act, 1922, or in respect of works carried<sup>which Act</sup> out or constructed by the Metropolitan Board of Water<sup>does not</sup> Supply, Sewerage, and Drainage, or the Hunter District<sup>apply.</sup> Board of Water Supply and Sewerage.

**6.** The Governor may by proclamation published in<sup>Power to</sup> the Gazette declare that any work or class of works<sup>declare Act</sup> other than a work of railway construction, tramway<sup>applicable</sup> construction, or work of water conservation and irri-<sup>to further</sup> gation shall be declared for the purposes of this Act an<sup>works.</sup> authorised work, and upon such publication the provisions of this Act shall apply to and in respect of such work or class of works.

**7.** The Governor may by proclamation published in<sup>Power to</sup> the Gazette from time to time vary the description of<sup>amend</sup> the lands described in the first Schedule, and upon such<sup>Schedule.</sup> publication such Schedule shall be deemed to be amended in accordance with the proclamation, and this Act to apply to and within the area described in such Schedule as so amended.

PART III.

COMMISSIONER FOR BETTERMENT.

**8.** (1) The Governor may appoint a Commissioner for Betterment, who shall, subject to this Act, have the execution and administration of this Act. Commissioner for Betterment.

(2) The provisions of the Public Service Act, 1902, shall not apply to such appointment.

(3) The salary of the Commissioner shall be fixed by the Governor, shall be charged upon the Consolidated Revenue Fund, and may be paid thereout upon the warrant of the Governor without further appropriation than this Act.

No reduction in such salary shall be made during the period of the appointment of the said Commissioner.

(4) The Commissioner shall be appointed for a term of seven years, and shall be eligible for reappointment for any like term.

(5) The Commissioner shall be a permanent head within the meaning of the Public Service Act, 1902, and any Act amending the same.

(6) The Commissioner may, subject to the approval of the Public Service Board, employ such officers of the Public Service to assist in the execution of this Act as he thinks necessary subject to the approval of the Public Service Board.

(7) For the purpose of carrying out the powers, duties, authorities, and obligations conferred or imposed by this Act, the Commissioner, with the approval of the Minister of the department concerned, may make temporary use of the services of any of the officers and employees of the Public Service.

(8) The Governor may, from time to time, appoint a deputy to whom the Commissioner may delegate any of the powers and authorities conferred upon him by this Act, but such delegation shall be subject to such conditions and limitations as the Commissioner may from time to time impose.

**9.**

9. (1) The retiring age for the Commissioner shall be sixty-five years. Retiring age,  
pensions, &c.

(2) Any employer's contribution necessary under the Superannuation Act, 1916, in respect of the pension of a Commissioner shall be payable out of the Consolidated Revenue Fund.

(3) The Commissioner shall, be entitled to such leave of absence as may be prescribed.

(4) The Commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except in manner following, that is to say:—

The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is in session, or if not, then within seven sitting days after the commencement of the next session.

A Commissioner suspended under this subsection shall be restored to office unless each House of Parliament within twenty-one sitting days from the time when such statement has been laid before such House declares by resolution that the Commissioner ought to be removed from office, and if each such House within the time aforesaid does so declare, the Commissioner shall be removed by the Governor accordingly.

(5) The Commissioner shall be deemed to have vacated his office if he—

(a) engages in New South Wales during his term of office in any paid employment outside the duties of his office, except in some office or employment under the Crown which he holds at the time of his appointment as Commissioner or to which he may thereafter be appointed by the Governor;

(b) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary or estate for their benefit;

(c)



- (c) absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor (which leave he is authorised to grant), or becomes incapable of performing his duties;
- (d) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act, 1898;
- (e) resigns his office by writing under his hand addressed to the Governor.

(6) A Commissioner who at the date of his appointment is an officer of the Public Service shall, in the event of his office as Commissioner being discontinued or abolished, be eligible on the recommendation of the Public Service Board to be appointed to some office in the Public Service not lower in classification and salary than that which he held at the date of his appointment as Commissioner, and, if no such office is vacant or available, shall be entitled to such leave of absence as it is the practice at the commencement of this Act to grant to officers who are retrenched as a result of the reorganisation of any public department.

(7) Nothing contained in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, or under the Superannuation Act, 1916, or any Act amending such Acts, to any officer of the Public Service appointed Commissioner under this Act.

Any officer of the Public Service so appointed shall continue to contribute to any fund or account, and shall, if he is a contributor to the Superannuation Fund, be entitled to contribute as from the date of his appointment for such additional units as will ensure him the maximum pension payable under that Act.

He shall be entitled to receive any deferred and extended leave, payment, pension, or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as the case may be.

(8) In the case of the illness or absence from New South Wales of the Commissioner, the Governor may appoint any person to perform all or any of the duties imposed upon the Commissioner by or under this Act.

(9) Cyrus Willmott Oberon Tye, Esquire, Director of Development, shall be deemed to be appointed the first Commissioner for Betterment, and shall carry out without extra remuneration the duties of the Director of Development until the Governor otherwise directs.

The said Cyrus Willmott Oberon Tye, Esquire, if his office as Commissioner for Betterment is discontinued or abolished within seven years of the commencement of this Act, and the Public Service Board certifies that there is no office in the Public Service available to which he might be appointed, shall become entitled to receive from Consolidated Revenue Fund without contribution, a pension during the remainder of his life of such a sum as with the pension he is entitled to receive from the State Superannuation Fund will amount to three hundred and twelve pounds per annum.

Such pension may be paid upon the warrant of the Governor and without further appropriation than this Act.

#### PART IV.

##### BETTERMENT AREA COMMITTEES.

**10.** The authority to delimit the betterment area in respect of an authorised work to which this Act applies shall be a betterment area committee.

Committee to delimit a betterment area.

**11.** (1) A betterment area committee shall consist—

Constitution of various committees.

- (a) where the authorised work is a work of railway construction or tramway construction to be carried out within the County of Cumberland, of the persons who for the time being are acting in the offices of the Valuer-General, of the Surveyor-General, of the Chief Engineer for Metropolitan Railway Construction, together with two persons appointed by the Governor selected from five persons nominated in the prescribed manner by the Real Estate Institute;

(b)

- (b) where the authorised work is a work of railway construction or tramway construction to be carried out within Newcastle and district, of the persons who for the time being are acting in the offices of the Valuer-General, of the Surveyor-General, together with a representative of the Constructing Authority and two persons appointed by the Governor selected from five persons nominated in the prescribed manner by the Real Estate Institute;
- (c) where the authorised work is a country work of railway construction or tramway construction, of the persons who for the time being are acting in the offices of the Valuer-General, the Chairman of the Closer Settlement Board, and the Director of Agriculture, together with a representative of the Constructing Authority;
- (d) where the authorised work is a country work of water conservation and irrigation, of the persons for the time being who are acting in the offices of the Valuer-General, the Chairman of the Closer Settlement Board, and the Director of Agriculture, together with a representative appointed by the Water Conservation and Irrigation Commission;
- (e) where the authorised work is one not specified in the foregoing provisions, of the Valuer-General and such four other persons as the Governor may appoint.

(2) Where any authorised work is to be carried out in or partly within the Western Division the Chairman of the Western Land Board shall be an additional member of the betterment area committee in respect of such work.

(3) The Governor may in any case where it is impracticable for an officer mentioned in subsection one of this section to act upon a committee, appoint some other officer of the Public Service to act as the deputy of such officer, and such deputy so appointed shall be deemed for all purposes during such period as the Governor directs to be a member of the committee.

**12.** (1) The Valuer-General shall be the chairman Chairman, &c. of all betterment area committees.

(2) The Minister may appoint some other member of a committee to act as chairman thereof in the absence of the Valuer General-from any meeting of the committee.

(3) The chairman or acting chairman of a committee so appointed shall have a casting as well as a deliberative vote.

(4) A committee may act notwithstanding any vacancy in their number.

(5) Three shall be a quorum and may transact any business and execute any power or duty of the committee.

(6) A committee shall keep or cause to be kept proper minutes of all meetings of the committee.

(7) The Commissioner for Betterment shall arrange or provide for all committees any necessary clerical or other assistance.

**13.** (1) Prior to the introduction of a Bill authorising the construction of a public work which has not been referred to the Parliamentary Standing Committee on Public Works and to which work when authorised the provisions of this Act will apply, or where any public work to which, when authorised this Act will apply, is—

Plans of proposed works to be furnished to the Commissioner.

- (a) referred to such Standing Committee; or
- (b) submitted to the Governor for direction that such work shall be carried out under the Public Works Act, 1912,

it shall be the duty of the Minister introducing the Bill proposing the reference or making the submission as the case may be to cause to be furnished to the Commissioner a plan prepared and authenticated in the prescribed manner showing—

- (i) the route of the proposed railway or tramway as located by the trial survey; or
- (ii) the site of any headworks and subsidiary works of water conservation together with the proposed routes of water supply or irrigation channels or pipes located by the trial survey; or
- (iii)

(iii) in the case of other works to which this Act applies such information as is prescribed.

(2) When any authorised work to which this Act applies is under construction at the commencement of this Act the Constructing Authority shall upon the request of the Commissioner furnish him with such plans and information regarding the work as may be arranged.

(3) The Commissioner upon the receipt of any plans or information under this section shall take steps to convene the committee concerned, and submit such plans and information for the consideration of the Committee.

(4) Generally the Commissioner shall act as the medium of communication between a betterment area committee and any Constructing Authority or other public body.

PART V.

BETTERMENT AREAS.

**14.** (1) The Minister or Constructing Authority, as the case may be, shall, so soon as practicable after the completion of the surveys in connection with an authorised work, cause to be furnished to the Commissioner a certificate showing—

Further detailed information to be furnished.

- (a) the land which it appears will be required in connection with the construction of the authorised work; and
- (b) the lands which it appears are likely to be required for use temporarily, or to be damaged or prejudicially affected during the construction of the authorised work or after the completion thereof;
- (c) in the case of an authorised work of railway construction, the sites of proposed sidings or stations.

(2)

(2) The certificate shall be accompanied by such maps, plans, sections, and elevation (if any) as the Commissioner may require and shall set forth—

- (a) the lands on and through which it is proposed to construct the authorised work ; and
- (b) the names of the respective owners, lessees, or occupiers or reputed owners, lessees, or occupiers of such lands, so far as is known or readily ascertainable.

**15.** (1) The Commissioner shall, upon the receipt of the certificate, convene the betterment committee concerned and furnish it with all information in his possession regarding the work or the district in or through which it is to be constructed. Fixing of betterment area.

(2) The committee shall forthwith proceed to consider to what lands an enhancement in value during the betterment period may reasonably be expected.

(3) The committee shall hold a public inquiry of which the prescribed notice shall be given before any one or more of their number in the district in or through which the work is to be constructed.

For the purpose of the inquiry the committee may summon any person to appear and give evidence and to produce books, papers, writing, or documents, and may hear and receive evidence on oath.

(4) At any such public inquiry the committee shall give audience to such representatives of a shire or municipal council and of the Crown or a Constructing Authority, and may in its discretion allow any owner of lands in the district in or through which the work is to be constructed to appear either personally or by counsel.

(5) The Committee after taking into consideration the evidence taken at such inquiry and any representations made to them shall delimit the area comprising the lands to whose value enhancement during the betterment period by reason of the construction and/or operation of the work may reasonably be expected, in this Act referred to as a betterment area, and shall furnish a plan of such area, showing the prescribed particulars in duplicate signed by the committee to the Commissioner.

(6)

(6) The Commissioner shall forthwith lodge one copy of the plan for registration in the Office of the Registrar-General.

The plan may be registered in such registry and in such manner as may be prescribed by regulations made under the Conveyancing Act, 1919.

The Commissioner shall also cause to be published in the Gazette and in such newspapers as are prescribed for public information a description of the external boundaries of the betterment area.

The Commissioner shall furnish to all councils within whose area a betterment area is delimited such plans and descriptions thereof as are prescribed.

(7) The regulations may prescribe the procedure at any public inquiry held by a betterment area committee including the form and method of summoning witnesses and the penalties for any disobedience of any such summons and the expenses of witnesses and all matters necessary or convenient to be prescribed to give effect to this section.

**16.** Where any substantial alteration of the site of an authorised work or any substantial alteration or modification of the route thereof is made, the Commissioner shall refer the matter to the committee for report as to whether the betterment area should be redelimited, and, if the report is that the betterment area is substantially affected by the alteration or modification, the Commissioner shall direct a redelimitation of the betterment area. On any such redelimitation the procedure shall be as prescribed in the regulations, and it shall not be obligatory upon the committee to hold a public inquiry.

Variation of route.

**17.** The Commissioner may, if he receives from not less than one-third of the owners of land in a betterment area as appearing in the certificate of the Minister or Constructing Authority within two months of the date of its notification in the Gazette a petition asking for a reconsideration of the delimitation of a betterment area, refer the question back to the committee for a further public inquiry to be held and a further consideration of the boundaries of the area, and the committee may affirm or amend the delimitation of the area.

Reconsideration of boundaries.

Any

Any amendment of the betterment area shall be registered by the Commissioner in the office of the Registrar-General, and be notified in the Gazette and in such newspapers as may be prescribed.

PART VI.

ASSESSMENT OF ENHANCEMENT.

**18.** This Part does not apply to the County of Cumberland, or to Newcastle and district.

Part not to apply to Sydney and certain municipalities or to Newcastle and district.

**19.** (1) The Commissioner shall as soon as practicable after the notification of the delimitation of a betterment area, furnish to the district valuer a list of the properties comprised within the betterment area and of the owners thereof as appearing in the rate-book of the council where the betterment area is within a municipality or shire, and in other cases as may be ascertained by him from information in the Department of the Valuer-General, or from any other records available.

Assessment.

(2) The district valuer shall assess the original value of each separate parcel of land, and forward to the Commissioner a certificate in the prescribed form setting out his assessment of such original value.

(3) The rate-book of any municipality or shire may be inspected and availed of by the Commissioner or any district valuer.

So far as possible the lands shall be considered in the same parcels as appear in the rate-book of the council, subject to any notified alteration in the possession of the council or of the district valuer.

(4) The Commissioner shall notify each owner of the assessment of his land in the prescribed manner.

**20.** The district valuer shall at the conclusion of the period of five years after the proclaimed date of completion

Final assessment of enhancement.



completion of an authorised work assess the unimproved capital value of each separate parcel of land in the betterment area, and shall forward to the Commissioner a certificate in the prescribed form setting out his assessments, and certifying the amount of enhancement in respect of each separate parcel.

**21.** (1) After two years from the commencement of the betterment period in respect of an authorised work the district valuer shall assess the unimproved capital value of each separate parcel of land in the betterment area as at the expiration of such two years, and shall forward to the Commissioner a certificate in the prescribed form setting out the original value of the parcels and their value as assessed by him as at the expiration of such two years. <sup>Interim assessments.</sup>

(2) At the end of each two years until the expiration of the period of the five years after the proclaimed date of completion of the work, the district valuer, if so required by the Commissioner, shall make a fresh assessment and forward to the Commissioner a similar certificate showing the original value of each separate parcel of his assessment of the unimproved capital value of the same parcels as at the end of the period of two years specified in the certificate.

Notice of any such assessment shall be given by the Commissioner to the owner of the parcel in the prescribed manner.

**22.** The Commissioner may in the prescribed manner levy betterment rate upon the enhancement in value disclosed by any such certificate and may amend any such levy having regard to the values shown in any subsequent certificate. <sup>Interim determination of betterment.</sup>

Upon the final assessment at the end of the betterment period the Commissioner shall make a final levy in respect of each separate parcel upon the values then disclosed, and shall make final adjustment of the amount to be paid for betterment rate, giving credit for any amounts which have already been paid in respect of the parcel and making any necessary apportionments where parcels have been subdivided.

B

**23.**

**23.** (1) It shall not be incumbent upon a district valuer to comprise in his certificate any reference to any unoccupied Crown lands.

Special provisions with regard to Crown lands.

For the purposes of this Act the original value of the unoccupied Crown land comprised in a betterment area and likely to be disposed of and not to be retained for public purposes, and the enhancement in the value thereof attributable or likely to ensue from the construction and operation of an authorised work, shall be agreed upon by and between the Secretary for Lands, the Secretary for Public Works, and the Colonial Treasurer.

An amount equivalent to the betterment rate in respect of the enhancement agreed upon shall be debited to the authorised work in an account to be kept at the Treasury, under the title Crown Lands Betterment Suspense Account, and credited to the General Loan Account to the credit of the work.

As amounts are received from the disposal of such Crown lands the proportion thereof prescribed by law shall be credited to the Crown Lands Betterment Suspense Account.

(2) Where Crown lands are held on some leasehold tenure the district valuer shall assess and certify the enhancement of the land in all respects as if the land were freehold, and the holder of the lease under the Crown shall pay betterment rate at an amount equal to the interest at Treasury rate upon one-third of the enhancement so certified during the currency of the lease or any extension thereof.

Any subsequent holder of a leasehold interest shall pay a similar rate. Where any such lands are subdivided the rate shall be apportioned by the Commissioner and the apportionment notified in the prescribed manner.

If the leasehold interest is converted into any tenure under which the fee simple in the land may be obtained by the holder, betterment rate upon the enhancement during the betterment period shall as from the date of conversion become payable to the Commissioner at the times and in the manner prescribed by the regulations.

(3)

(3) Where land is vested in any statutory body representing the Crown, if the Governor so directs in any particular case the enhancement to the land shall be assessed and certified by the district valuer and an amount equal to the interest at Treasury rate upon one-third of the enhancement shall be paid to the Commissioner in view of betterment rate and shall be applied in like manner as sums received by him as rates are applied. Save as aforesaid the rate shall be levied on the lands of such statutory authority.

**24.** The Commissioner may cause an assessment of the unimproved capital value of any parcel of land to be made by the District Valuer as at any date that may be necessary or convenient for carrying out any provision of this Act. Power to have lands valued at other times.

**25.** Every separate parcel of land within a betterment area shall be charged with the payment of the betterment rate upon the enhancement in value of such parcel during the betterment period as from the date of the registration of the plan of the betterment area in the Office of the Registrar-General. Charge of betterment rate.

Such charge shall take priority over any mortgage or other encumbrance affecting the land.

Such charge shall rank *pari passu* with any charge imposed on the land by or under any other Act.

**26.** After the final levy of the betterment rate any owner may redeem such charge by paying to the Commissioner the whole of the rate with interest thereon to date of payment, and the Commissioner, on such payment, shall issue a redemption certificate in the prescribed form. Redemption of charge.

**27.** (1) Upon any sale of a parcel of land within a betterment area after a levy of betterment rate the whole of the rate then levied with interest thereon to date of payment shall become immediately payable to the Commissioner. Whole of rate payable on sale.

(2) The Commissioner, if satisfied that the sale is made upon terms of deferred payment, may, without prejudice to charge, allow the payment of the rate to be made in such instalments as he may arrange.

**28.**

**28.** The betterment rate as finally levied shall Final levy. become due and payable to the Commissioner on the date specified in the notice levying the rate, but, at the option of the owner notified in the prescribed manner, may be paid, together with interest thereon prescribed, by equal annual instalments spread over the remainder of the period of twenty years from the issue of the first interim betterment rate notice in respect of the parcel of land affected.

**29.** Prior to the final levy of betterment rate the Interim levy. amount of betterment rate specified in any interim levy thereof shall be payable to the Commissioner on the date specified in the notice levying the rate, but, at the option of the owner, notified in the prescribed manner, may be paid, together with interest thereon, by twenty equal annual instalments spread over the period of twenty years from the issue of the first interim betterment rate notice in respect of the parcel of land affected.

**30.** Upon each subsequent levy of betterment rate Subsequent levy to supersede earlier. in respect of the same authorised work the prior levy shall be superseded and credit given for any amounts paid towards redemption of the rate, interest being disregarded.

**31.** Where upon any assessment the betterment rate Minimum instalment payable. on a parcel of land is less than twenty pounds the minimum annual instalment payable shall be one pound.

**32.** Any annual instalment of betterment rate Time for payment. payable shall be paid within ninety days after demand therefor by the Commissioner.

**33.** No payment of betterment rate in respect of a No payment for 12 months in certain cases. work which was authorised prior to the commencement of this Act but the construction of which was not commenced, or in respect of a work under construction at such commencement, shall be due or payable until after the expiration of twelve months from the proclaimed date of commencement of the work.

PART VII.

COLLECTION OF BETTERMENT RATES.

**34.** (1) Betterment rate shall in the case of betterment areas delimited in respect of country works be of such a proportion of the enhancement during the betterment period as Parliament by Act provides, and shall be levied and collected by the Commissioner in accordance with and subject to the provisions of this Act and the regulations made thereunder.

Betterment rate.  
(Country lands.)

(2) Betterment rate shall in the case of betterment areas delimited in respect of authorised works to be constructed within the County of Cumberland and within Newcastle and district shall be at such rate in the pound of the unimproved capital value of the lands within such betterment area and for such period as Parliament directs, and shall be levied and collected by the council of the city, municipality, or shire within which the land to be rated lies.

(Cumberland and Newcastle and district lands.)

(3) Betterment rate shall in the case of any work constructed or to be constructed under the authority of the City and Suburban Electric Railways Act, 1915, or any Act amending or replacing the same, shall be levied on the owners of lands in such areas during such period and at such rates in the pound of the unimproved capital value of the lands therein as Parliament directs.

Lands affected by works constructed under authority of City and Suburban Railways Act, 1915.

Such rate shall be levied and collected by the council of the city or municipality in whose area the lands subject to such rate are situated.

**35.** Betterment rate levied upon lands within the City of Sydney shall be so levied under and in accordance with the provisions of the Sydney Corporation Act, 1902, and any Act amending the same, relating to the imposition or collection of rates within the city, and shall be levied upon only such lands as are subject to be rated by the Municipal City of Sydney under the said Acts, and the provisions of such Acts and the by-laws thereunder shall apply to the charge of and the levying, collection, and recovery of such betterment rate.

Application of Sydney Corporation Act, 1902, in certain areas.

**36.**

**36.** (1) Betterment rate levied upon lands within the area of any municipality or shire within the County of Cumberland or within Newcastle and district shall be so levied under and in accordance with the Local Government Act, 1919, as amended by subsequent Acts, and shall be levied upon only such lands as are subject to be rated by the council under the said Acts.

Application of L.G. Act, 1919, in certain cases.

(2) The provisions of such Acts and the ordinances thereunder shall apply to the levy, charge, collection, and recovery of such betterment rate.

**37.** Any betterment rate levied shall be a charge upon the land upon the owner of which it is levied, and the rate or any amount due in respect thereof may be recovered in any court of competent jurisdiction in the case of rates levied in respect of country works by and in the name of the Commissioner, and in the case of rates levied in respect of authorised works within the County of Cumberland and Newcastle and district by and in the name of the council levying the rate.

Rate recoverable by Commissioner or council.

**38.** (1) The proceeds of any betterment rate required by this Act to be levied and collected by a council after deducting such proportion thereof as the Minister may from time to time in such case approve shall within the prescribed period be paid by the council to the Colonial Treasurer.

Proceeds—how disposed of.

(2) The Colonial Treasurer shall place to the credit of the vote in General Loan Account out of which the cost of the authorised work in respect of which the rate is levied, any proceeds of the rate received by him either from the Commissioner or from a council as the case may be.

**39.** Where the land in respect of which betterment rate is levied is owned or held jointly by two or more persons, such persons shall be jointly and severally liable to the Commissioner or a council for the rate, but as between themselves each shall only be liable for such part of the rate as is proportionate to his interest in the land and in the improvements thereon.

Joint holdings.

If any person pays to the Commissioner or a council more than his proportionate part, he may recover the excess by way of contribution from the others.

**40.** (1) Where a person disposes of his estate or interest in any land in respect of which a betterment rate has been levied and is payable under this Act he shall nevertheless be a ratable person and liable to the Commissioner or a council for the rate to the same extent as if he had not disposed of his estate or interest, provided that the rate is levied either—

Rights as between vendor and purchaser, &c.

- (a) before he disposes of his estate or interest; or
- (b) before the prescribed notice of the transfer is given to the Commissioner or the council.

(2) If any person who disposes of his estate or interest in land in respect of which a betterment rate is payable under this Act pays to the Commissioner or a council any rate in respect thereof which is levied after he disposes of his estate or interest, and before the prescribed notice of the transfer is given to the Commissioner or the council, he may recover the whole or a just proportion of the amount from the person to whom he disposed of his estate or interest.

(3) As between a ratable person and any other person from or to whom he derives or disposes of his estate or interest in land in respect of which a betterment rate is payable under this Act every rate shall be considered as accruing from day to day, and shall be apportionable in respect of time accordingly.

Rate apportionable.

**41.** (1) Where a person by becoming entitled to an estate or interest in land becomes a ratable person under this Act he shall be liable to the Commissioner or a council for the rate and for all arrears of the rate owing by any previous owner, lessee, or occupier, as the case may be, in respect of the interest of such owner, lessee, or occupier in such land, notwithstanding the fact that he became entitled to the estate or interest after the rate was levied.

Liability to rate.

(2) If any ratable person who becomes entitled to an estate or interest in the land pays to the Commissioner or a council any rate in respect thereof which was levied before he became entitled to the estate or interest he may recover a just proportion of the amount from the person who was liable for the rate at the time when the rate was levied.

(3)

(3) Nothing in this section shall affect or extend to any person who is the holder of a lease or purchase from the Crown where the lease is granted or purchase made after the rate is levied, whether the land has been previously held under a lease or purchase from the Crown or not.

**42.** (1) Where a ratable person—

- (a) is a resident outside New South Wales ; or
- (b) is unknown to the Commissioner or a council ;  
or
- (c) has not after reasonable efforts by or on behalf of the Commissioner or a council to effect service been served in any legal proceedings for the recovery of the rate ; or
- (d) is a bankrupt ; or
- (e) dies ; or
- (f) has had a verdict or judgment given against him for the amount of the rate,

Recovery from occupier in certain cases.

the Commissioner or the council may serve upon any person in occupation of the land a notice of the amount of the rate or of such verdict or judgment and a demand that any amount then due or thereafter to become due by such person in respect of the land be paid by him as it falls due to the Commissioner or the council in liquidation of the amount of the rate, verdict, or judgment.

(2) In default of payment as aforesaid, the Commissioner may recover the amount of the demand, or any outstanding portion thereof, as a debt.

(3) Any payment to the Commissioner under this section shall be a valid discharge to the payer for such rate as against all persons whomsoever.

(4) Nothing in this section shall apply to a person who is in occupation for or on behalf or as the servant of the Crown.

**43.** Overdue rates shall be increased in accordance with this section—

Penalty for late payment.

- (a) if the rates are unpaid at the expiration of three months from the due date, the amount due



due shall be increased by a sum calculated at the rate of seven per centum per annum, and the increase shall be deemed to be part of the rates ;

- (b) the calculation under the last preceding paragraph shall be made in respect only of as many complete months as have expired between the date due and the date of payment, excluding any remaining portion of a month ;
- (c) if in any case the percentage is less than threepence the increase shall be threepence ;
- (d) the charge under this section shall continue to apply to all unpaid rates notwithstanding that judgment may have been obtained in any court of competent jurisdiction ;
- (e) the Commissioner may add to the amount of any rate any reasonable out-of-pocket expenses incurred in tracing the person liable to pay the rate ; and such expenses may be recovered as a rate and at the same time as any rate, but without the necessity to give any notice thereof.

**44.** (1) Any person may apply for a certificate Certificate of amount due. under this section as to the amount (if any) due or payable to the Commissioner for a rate or otherwise in respect of any land.

(2) Application for the certificate shall be made in writing, and shall state the name and address of the applicant and the particulars of the land in respect of which the information is required.

(3) The Commissioner shall upon payment of a fee of two shillings and sixpence for each certificate having reference to a parcel of land separately assessed forthwith give or post to the applicant a certificate in writing stating what (if any) rate, charges, or sums of money are due or payable to the Commissioner in respect of the land with the particulars thereof and when the same became due or payable, or that no such rate or charge or sums are then due or payable, as the case may be.

(4)

(4) The production of the certificate shall for all purposes be deemed conclusive proof in favor of a bona fide purchaser for value that at the date thereof no rate, charges, or sums other than those stated in the certificate were due or payable to the Commissioner in respect of the land.

(5) For the purposes of this section the rate, charges, or sums of money shall be deemed to be due or payable notwithstanding that the requisite period after service of any notice may not have expired.

**45.** Where a ratable person transfers his estate or interest in the land subject to betterment rate the ratable person and the transferee shall (except as provided in this section) within one month of such transfer give notice thereof to the Commissioner in the prescribed form, but it shall not be necessary to give notice of any transfer upon a mortgage or upon the discharge of any mortgage. Notice of transfers.

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## PART VIII.

### APPEALS.

**46.** This Part of this Act shall not apply to the County of Cumberland or to Newcastle and district. Application of Part.

**47.** (1) A ratepayer may within sixty days after the service of a notice of the levy of a rate upon him appeal from such levy in the prescribed manner to a betterment assessment appeal committee.

(2) The appeal shall be accompanied by a deposit of five per centum of the betterment rate levied subject to a minimum of five pounds, which deposit, unless such appeal shall be deemed by the committee to be frivolous, shall be returned to the appellant after the appeal is disposed of.

**48.**

**48.** (1) A betterment assessment appeal committee shall be constituted—

Constitution of betterment assessment appeal committees.

- (a) in respect of any betterment area within the Eastern and Central Divisions of the Valuer-General, the Chairman of the Closer Settlement Board, and the Director of Agriculture ;
- (b) in respect of any betterment area within the Western Division of the Valuer-General, the Chairman of the Closer Settlement Board, the Director of Agriculture, and the chairman of the Western Lands Commission.

(2) The Valuer-General shall act as chairman of all such committees or in his absence the senior public officer sitting on the committee shall sit as chairman.

In the event of the members of a committee being equally divided in opinion, the chairman shall, in addition to voting as a member of the committee, have a casting vote.

Where the chairman or any member of a betterment assessment appeal committee is unable to act on the committee, the Minister may appoint a deputy member to act during his inability to act.

(3) The committee shall consider any representations which an appellant may desire to submit whether in person or in writing.

(4) The decision of the committee shall be final and conclusive and costs shall not be allowed to any appellant in connection with his appeal.

ALTERNATIVELY.

**47.** Any person aggrieved by any delimitation of a betterment area or by any assessment or levy of betterment rate may appeal therefrom to the Land and Valuation Court within the time and in the manner prescribed by rules of that court.

The decision of the Land and Valuation Court shall be final and shall be given effect to by the Commissioner.

PART IX.

MISCELLANEOUS REGULATIONS, &c.

**49.** Where for any reason a ratepayer is unable to pay the betterment rate or any annual instalment of rate, and such reason is satisfactory in the opinion of the Commissioner, the Commissioner may defer any such payment upon such terms and conditions, including the payment of interest, as he thinks fit. Remission of rate.

**50.** (1) The Governor may by proclamation published in the Gazette declare that the construction of an authorised work has been indefinitely suspended, and may by the same proclamation declare that during such suspension, and until further proclamation, betterment rate in respect of the work shall be suspended. Suspension of work.

(2) Where the betterment rate is so suspended—

(a) no further levy of the rate shall be made before a date to be appointed by the Governor and notified by proclamation published in the Gazette as the day upon which the levy and collection shall be resumed;

(b) payment of any annual instalment of rate not due and payable shall be deferred for such time as is prescribed.

**51.** (1) Where any land in a betterment area is leased, the owner and the lessee thereof shall as between one another be entitled to have the rent and the terms and conditions of the lease reviewed and adjusted, having regard to the enhancement of the value of the land or leasehold interest therein by reason of the construction or operation of the authorised work. Leased lands.

(2) This section shall apply, notwithstanding any stipulation in the lease or in any other document, and notwithstanding any determination of the fair rent of the premises affected in force.

(3) If the owner and lessee of any such land do not agree to the adjustment of the rent, or the terms and conditions of the lease, having regard to any enhancement

enhancement in the value of the land by reason of the construction or operation of an authorised work, the dispute shall be referred to arbitration under the Arbitration Act, 1902.

(1) "Lessee" in this section includes an original as well as a derivative lessee, also an under-lease, and any person deriving title under or through a lessee or under-lessee, and in relation to land held on under-lease "owner" includes the immediate lessor.

**52.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or authorised to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act. Regulations.

(2) The regulations may prescribe a penalty not exceeding *twenty* pounds for any breach thereof, or where the breach is a continuing one, not exceeding *five* pounds for every day during which such breach continues.

(3) The regulations shall—

- (a) be published in the Gazette ;
- (b) take effect from the date of publication or from a later date to be specified in the regulations ; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

**53.** Any penalty imposed by this Act or the regulations may be recovered before any stipendary magistrate or police magistrate or two or more justices of the peace in petty sessions. Recovery of penalties.

**54.**

**54.** (1) Section one hundred and twenty-four of the Public Works Act, 1912, is amended by inserting at the end of the first proviso after the words "enhancement of value as aforesaid" the words "nor shall this proviso operate where the work is an authorised work within the meaning of the Betterment Act, 1930."

Amendment of Act No. 45, 1912, s. 124.

(Basis of assessment of compensation.)

(2) The amendment made by this section shall apply only to and in respect of works authorised after the commencement of this Act.

SCHEDULE.

NEWCASTLE AND DISTRICT.

ALL that area or tract of country situate in the counties of Gloucester and Northumberland, and State of New South Wales: Commencing on the Hunter River at the south-western corner of portion 8, parish of Stockton, county of Gloucester; and bounded thence by the southern boundary of that portion easterly to the South Pacific Ocean; by that ocean generally southerly to the entrance to Lake Macquarie; by that entrance and the foreshores of that lake generally westerly, northerly, southerly and again westerly to Kilaben Creek; by that creek upwards to its intersection with the road from Wangi Wangi to Awaba, within portion 111, parish of Awaba, county of Northumberland; by that road generally north-westerly to the southern suburban boundary of the village of Awaba; by that boundary westerly, north-easterly, again generally westerly and generally north-easterly to the road 1 chain 50 links wide from Mulbring to Awaba; by that road generally north-westerly to the road from Wollombi; by that road south-westerly to the southern boundary of portion 117, parish of Mulbring; by part of that boundary and part of the western boundary of that portion westerly and northerly to the north-eastern corner of portion 72; by the northern boundary of that portion and the westernmost boundary of portion 70 westerly and northerly; by the road forming the northern boundaries of portions 69, 68 and 67, and the north-eastern boundaries of portions 63, 62 and 58 westerly and north-westerly to Broken Back Range; by that range generally westerly to the eastern boundary of portion 260, parish of Pokolbin; by a line along that boundary of that portion and portions 163, 165, 167, 169, 171 to 175 (inclusive), and 115 generally northerly to Deep Creek; by that creek, Black Creek and the Hunter River downwards, to the point of commencement.

Secs. 3, 4.