

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 4 August 1966

Words struck out by the Local Bills Committee are shown in italics in bold round brackets, or with black rule at beginning and after last line of struck out matter; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line of new matter.

Hon. Mr Macfarlane

CHRISTCHURCH DISTRICT DRAINAGE AMENDMENT

[LOCAL]

ANALYSIS

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A BILL INTITULED

An Act to amend the Christchurch District Drainage Act 1951

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

1. **Short Title**—This Act may be cited as the Christchurch District Drainage Amendment Act 1966, and shall be read together with and deemed part of the Christchurch District Drainage Act 1951, (hereinafter referred to as the principal
10 Act.)

2. **Constitution of District—authority to take over certain liabilities when district extended**—(1) *Section 3 of the principal Act is hereby amended by adding to subsection (2) the words “and the Board shall have and shall be deemed
15 always to have had all the powers of a Land Drainage Board under the Land Drainage Act 1908.”*)

No. 55—2

Price 6d.

New

“(1) Section 3 of the principal Act is hereby amended, as from the date of the commencement of that Act, by adding to subsection (2) the words “and the Board were a Land Drainage Board within the meaning of that Act”.

(2) Section 3 of the principal Act is hereby further amended by adding the following subsection:

“(12) When any area is added to the district, the Board shall be at liberty upon a date to be determined by the Board to assume liability for all loans raised prior to such adding by the local authority theretofore responsible therefor for the purposes of drainage and sewerage in and from the said area or from any other area already within the district but within the boundaries of such local authority and to this end all debentures and other securities issued or executed by such local authority shall be deemed to have been issued or executed by the Board and the assets of the Sinking Fund Commissioners of such local authority in respect of such loans shall be transferred to the Sinking Fund Commissioners of the Board.”

3. Vacation of office by members of Board—The principal Act is hereby amended by repealing section 12, and substituting the following section:

“12. Any member of the Board may resign his office by writing under his hand, delivered to the Chairman or to the Secretary, and in that case or in the case of his death, bankruptcy, compounding with his creditors, being of unsound mind, or absent without leave of the Board from four consecutive ordinary meetings of the Board his office shall become vacant.”

4. Travelling allowances and expenses and remuneration of Chairman and members—The principal Act is hereby amended by inserting after section 19A (as enacted by section 2 of the Christchurch District Drainage Amendment Act 1960), the following section:

“19B. (1) The Board is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

“(2) The Board may pay to the Chairman and to the members of the Board or any committee thereof travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

“(3) In addition to the allowances authorised by subsection (2) hereof, there may be paid out of the funds of the Board to each member of the Board other than the Chairman a sum not exceeding thirty shillings for each meeting of the Board or of any committee of the Board attended by him:

“Provided that the maximum amount paid to any member of the Board under this subsection shall not exceed the sum of seventy-eight pounds in any financial year and further provided that the maximum amount which may be paid to any member in respect of any one day shall not exceed thirty shillings, notwithstanding that he may have attended more than one meeting of the Board or of any Committee of the Board on that day.”

5. Power to take land—Section 30 of the principal Act is hereby amended by inserting after the word “within”, the words “or without.”

6. Construction of crossings – removal of obstacles—(1) The principal Act is hereby amended by inserting, after subsection (1) of section 43, the following subsection:

“(1A) The Board may, by order in writing under the hand of the Chairman, Secretary, or Engineer require all or any of the following things in respect of watercourses under the control of the Board:

(a) The construction, maintenance, or renewal of crossings or any other structures of any kind thereover or part thereover or therein at places and in manner directed by the Board; or

(b) The removal, burning, poisoning, cutting, or treating of (*trees*,) plants, weeds, or growths or the removal of any structures within a distance of such watercourse specified in such order which will obstruct or be likely to obstruct the free flow of water or sewage in any such watercourse.”

(2) Section 43 of the principal Act is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) Any such order as aforesaid may be directed to the owner of the thing causing the obstruction or to the owner or owners or occupier or occupiers of the land abutting the watercourse at the point where such obstruction occurs or where (*such crossing is*) any such crossings or structures are to be constructed or at the point where such removal is required.”

New

6A. **Tree roots obstructing watercourses**—The principal Act is hereby further amended by inserting, after section 43, the following section:

“43A. (1) The Board may, by notice in writing under the hand of the Chairman, Secretary, or Engineer, require the occupier or, in the case where there is no occupier, the owner of any land within the district to cut down or remove any tree on that land the roots of which in the opinion of the Board enter or are likely to enter any watercourse under the control of the Board. 5 10

“(2) Within twenty-eight days after the service of the notice, the occupier or owner, as the case may be, may object in writing to the Board against the requirements of the notice, and the notice shall thereupon be deemed to be suspended pending the determination of the objection or, where application is made to the Court to confirm the notice, pending the decision of the Court. 15

“(3) Where any such objection is received by the Board, the Board shall forthwith inquire into and dispose of the objection. 20

“(4) Where on inquiry into the objection the Board reaffirms its requirements, it may enter into an agreement with the occupier or owner, as the case may be, for the cutting down or removal of the tree at the expense, in whole or in part, of the Board. 25

“(5) Where the Board reaffirms its requirements and no such agreement has been entered into, the Board shall apply to a Magistrate’s Court for an order confirming the notice.

“(6) On the hearing of the application, the Court, whose decision shall be final, may— 30

“(a) Confirm the notice; or
 “(b) Set aside the notice; or
 “(c) Set aside the notice, and make an order authorising the Board, on giving not less than fourteen days’ notice to the occupier or owner, as the case may be, to enter upon the land and cut down or remove the tree at the expense of the Board. 35

“(7) Where—
 “(a) In any case in which no such objection is made, the occupier or owner, as the case may be, fails to do any act in compliance with the notice within forty-two days after the service of the notice; or 40

New

5 “(b) In any case in which objection is made, the notice is confirmed by the Court and the occupier or owner, as the case may be, fails to do any act in compliance with the notice within fourteen days after the giving of the decision of the Court,—

the Board may enter upon the land and do that act and recover the cost from him.

“ (8) The said cost shall be a charge on the land.”

10 **7. Consolidation of rates**—Section 2 of the Christchurch District Drainage Amendment Act 1954, is hereby amended by adding the following subsections:

15 “(7) The consolidated rate hereinbefore referred to shall be an annually recurring rate and may be levied in whole or in part year by year without further proceeding by the Board.”

20 “(8) The powers conferred on the Board by this section shall extend so as to apply in respect of special rates made for the purposes of drainage and sewerage whether before or after the commencement of this subsection by any other local authority over any area which, at the commencement of this subsection is, or may hereafter become, part of the district.”

8. Bylaws—Section 80 of the principal Act is hereby amended by adding the following paragraphs:

25 “(f) For providing that no person shall without written authority from the Board, alter the course of any watercourse or interfere with the banks thereof, or sweep, rake, place or throw or discharge any matter or thing into any watercourse controlled by the Board:

30 “(g) To determine the conditions on which public or private drains may be connected or continue to be connected with any watercourse under the control of the Board, including in those conditions the payment to the Board of any annual or other charges:

35 “(h) To prohibit or regulate the planting of trees, hedges, or other plants or the erection of any structures on or within a specified distance from the banks of any watercourse under the control of the Board where they will obstruct or be likely to obstruct
40 the free passage along the banks of such watercourse, of machinery or apparatus used for the purpose of improving, maintaining or cleaning such watercourse:

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“(i) To prohibit or regulate the pumping or releasing of water into any watercourse:

“(j) To prohibit or regulate the erection or construction in on or over any open watercourse under the control of the Board of any structure whatsoever.”

5 **9. Drains and sewers in subdivisions**—Section 54 of the principal Act is hereby amended by adding to subsection (1) the following proviso:

10 “Provided however that it shall be a sufficient compliance with the provisions of this section if the owner shall provide and lay the drains and sewers in some part of the land being so subdivided other than in a public road or street to the approval of the Board or shall make provision for the drainage and sewerage of the said land to the satisfaction of the Board
15 whether by way of easement over adjoining lands or otherwise or shall pay to the Board such amount as it shall determine (being the estimated cost of complying with its requirements) in which last event the Board shall itself lay such drains and sewers at such time as is convenient to it.”

20 *Struck Out*

10. Charges other than rates—The Board shall be at liberty to levy by way of charge upon any person or body being the owner or occupier (within the meaning of the Rating Act 1925) of any land or buildings within the district which shall
25 for the time being be exempt from rating as not being rateable property a sum equivalent to the reasonable cost of services rendered to such occupier in respect of the drainage or sewerage of such land and buildings the amount to be so paid being determined by agreement or in the event of disagreement by arbitration in terms of the Arbitration Act
30 1908.