

*Mr. Macfarlane.*

CHRISTCHURCH METROPOLITAN MILK.

[LOCAL BILL.]

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A BILL INTITULED

AN ACT to constitute the Christchurch Metropolitan Milk District and to empower the Christchurch City Council to undertake and control the Sale, Purchase, and Distribution of Milk for the District. Title.

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

1. (1) This Act may be cited as the Christchurch Metropolitan Milk Act, 1939. Short Title.

- Commencement. (2) Subject to the provisions of section *eighteen* of this Act, this Act shall come into force on a date to be specified in that behalf by the Governor-General by Proclamation in the *Gazette*, being not earlier than the date of the publication of the Proclamation. 5  
Notwithstanding the provisions of this subsection, it shall be lawful for the Council to conduct the poll referred to in the said section *eighteen*.
- Interpretation. 2. In this Act, unless the context otherwise requires,— 10
- “ Council ” means the Christchurch City Council: 10
  - “ District ” means the Christchurch Metropolitan Milk District constituted by this Act and as for the time being subsisting: 10
  - “ Milk ” includes cream: 15
  - “ Milk-store ” means and includes any shop, store, counter, building, premises, room, yard, or place whatsoever, or any portion thereof, which is used solely or partly for the sale of milk or for the reception or storage of milk 20  
for the purpose of sale:
  - “ Prescribed ” means prescribed by this Act or any by-law or resolution of the Council made hereunder:
  - “ To sell ” means to sell by wholesale or by retail, 25  
and includes to barter, supply for profit, offer for sale, receive for sale, have in possession for sale, expose for sale, send forward or deliver for sale, and to cause or suffer or allow to be sold; and “ sale ” and “ sold ” 30  
have corresponding meanings:
  - “ To test ” means and includes to analyse for detection of added water, preservatives, or other adulterants, to examine for percentage of butterfat contents and for purity, and to 35  
adopt such other processes as may from time to time be prescribed:
  - “ Treatment ” includes the examination, cleansing, pasteurization, modification, testing, grading, cooling, refrigerating, bottling, or packing of 40  
milk, or otherwise preparing milk for sale or consumption; and “ treat ” has a corresponding meaning.

3. The Christchurch Milk-supply and Markets Act, 1914, is hereby amended as follows:—
- Christchurch Milk-supply and Markets Act, 1914, amended.
- 5 (1) By repealing sections three, four, five, six, seven, eight, and seventeen thereof:
- 10 (2) By omitting from section two thereof all words after the words "City Council":
- (3) By omitting the word "milk-station" from sections nine, thirteen, fourteen, and eighteen thereof, and the word "milk-stations" from subsection (b) of section nineteen thereof:
- 15 (4) By omitting from section sixteen thereof the words "to the milk-supply of the city and" and the word "other":
- (5) By repealing subsections (c), (d), and (e) of section nineteen thereof.
4. (1) The area of land comprised within the limits described in the Schedule to the Christchurch Tramway District Act, 1920, including the City of Christchurch, together with the Boroughs of New Brighton, Sumner, Riccarton, and such portions of the Counties of Waimairi, Papanua, Heathcote, and Halswell as are therein included, but excluding that area of land referred to in subsection three of section nine of the Christchurch Tramway District Amendment Act, 1932-33, shall for the purposes of this Act form one district, to be known as "the Christchurch Metropolitan Milk District."
- Christchurch Metropolitan Milk District constituted with Council control.
- 20 (2) The Governor-General may at any time and from time to time, by Proclamation, on the petition of the Council, alter the boundaries of the district by including therein or excluding therefrom any area.
- 30 (3) The district shall for the purposes of this Act, and of any regulation, resolution, or by-law made hereunder, be subject to the control of the Council.
- 35 5. (1) It shall be lawful for the Council to do all or any of the following things:—
- Powers of the Council.
- (a) To buy, sell, collect, treat, store, deliver, distribute, or dispose of milk, or to procure any other person to do so:
- 40 (b) To manufacture, buy, and sell butter, cheese, and other products of milk, and ice:
- (c) To carry on business as a dairy-farmer or as a dealer in milk and the products of milk:

- (d) To fix, vary, or revoke the price or prices which shall be paid to or by or charged by any person (including the Council) for the sale, purchase, collection, testing, treatment, storage, distribution, or delivery of milk or milk-bottles within the district: 5
- (e) To prohibit the sale or purchase of milk within the district except for coupons or tokens issued by the Council, and to provide for the establishment, maintenance, administration, 10 regulation, and control of such coupon or token system, or likewise provide other charges or other methods or practices of payment or collection of accounts for milk sold within the district. 15
- (2) For the purposes of this Act it shall be lawful for the Council to do all or any of the following things:—
- (a) To establish, construct, alter, operate, or maintain within the district milk-stations for the collection, storage, testing, treatment, sale, delivery, distribution, or disposal of milk or for any one or more of such purposes: 20
- (b) To carry on research and investigation relating to milk, and for such purpose to set up and maintain laboratories: 25
- (c) To erect, maintain, alter, or otherwise deal with factories, railway sidings, buildings, or other structures, and to install, operate, or otherwise deal with machinery, plant, fittings, apparatus, 30 appliances, or works:
- (d) To purchase or lease any land or interest in land required for the purposes of this Act, or take the same under the provisions of the Public Works Act, 1928, as if the same were 35 required for a public work, or otherwise acquire the same:
- (e) To purchase or otherwise acquire any stock, and to purchase, lease, hire, or otherwise acquire any milk-store or milk business, or 40 any interest therein, and any machinery, plant, vehicles, appliances, patents, chattels, rights, and property of any description in connection therewith:

- 5 (f) To promote, or subscribe for or purchase shares or other interests in, any company empowered to engage in the manufacture of butter, cheese, ice-cream, or other ice-cream or milk products to which the Council desires to sell or supply milk:
- (g) To sell, lease, hire, or otherwise dispose of any property of the Council acquired under the provisions of this Act:
- 10 (h) To appoint and employ from time to time, in such manner and on such terms as it thinks fit, managers, engineers, agents, workmen, servants, and inspectors:
- 15 (i) To procure the performance or rendering of any work or service, and to enter into any contract in relation to the matters herein provided:
- (j) To pay or give consideration for any property, work, or service in such manner as it thinks fit, to pay interest at such rate as it thinks fit (not exceeding five per centum per annum) on any moneys for which the Council has become liable under the provisions of this Act, and for the purpose of giving security for payment of any such moneys and interest to mortgage, pledge, or otherwise charge any property acquired hereunder:
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- 25 (k) To enter into agreements with any persons for the sale of milk in such manner and for such periods and for such consideration (whether by way of fixed payments, commission on sales, or otherwise), and subject to such terms and conditions as the Council thinks fit:
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- 35 (l) To require the persons referred to in the *preceding* subsection to furnish such guarantee, bond, or security as the Council shall deem fit for the payment of debts owing at the date of such agreements, or that may thereafter be incurred by them in respect of the purchase of milk, from any person, including the Council, and to cause any moneys recovered under such guarantee, bond, or security, less the expenses of recovery, to be applied in or towards satisfaction of such debts, or any of them:
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- 45

- (m) To provide for the testing or treatment of milk, and to prescribe precautions to be taken for protecting milk against deterioration, infection, or contamination, and to secure the sanitary construction and cleanliness of dairy premises, milk-stations, and milk-stores within the district and milk-vessels used therein: 5
- (n) To provide for the storage, in cool chambers or otherwise, of milk, butter, cheese, and other products of milk: 10
- (o) Generally to prescribe such conditions and to do or cause to be done anything which in its opinion may be necessary or desirable to promote the consumption of milk or any product, derivative, or constituent thereof, 15 or to ensure for the district an adequate supply of milk of good quality at reasonable prices.

By-law powers  
and procedure.

6. (1) The Council may from time to time make such by-laws as it thinks fit for any of the following purposes:— 20

- (a) The more effectual carrying-out of any of the objects of this Act:
- (b) Regulating any of the subject-matters of this Act: 25
- (c) Prescribing the matters in respect of which fees and charges shall be payable under this Act, and the amount of such fees and charges.

(2) The power to make such by-laws shall be exercised by the Council in the manner prescribed in 30 the Municipal Corporations Act, 1933, for making by-laws in respect of a borough, and the provisions of that Act relating to by-laws made thereunder shall, with the necessary modifications, apply to by-laws in respect of the district under this Act.

Protection of  
Council by  
notification  
when  
purchasing  
personal  
property.

7. (1) In any case where the Council has agreed to 35 purchase any personal property from any person (herein referred to as the vendor) operating any milk round, business, service, or undertaking in the district, the Council may insert in any two of the leading daily newspapers circulating in the City of Christchurch a notification of the general effect of such agreement and 40

a request that any person claiming an interest in or charge upon such property shall notify the Council in writing giving details of such claim.

(2) At any time after the expiration of *seven* days 5 from the latest insertion of such notification, if no such notice of any claim has then been received by the Council and there is no person then entitled to any interest in or charge upon such property created or evidenced by any instrument registered under the 10 Chattels Transfer Act, 1924, or the Companies Act, 1933, the Council may pay the purchase-money for such property to the vendor.

(3) If the date for payment of purchase-money fixed by any such agreement is too early to enable the 15 foregoing steps to be taken, such date shall be so extended as to permit of compliance with the foregoing provisions of this section.

(4) Upon payment of the purchase-money for such property in accordance with the foregoing provisions 20 the same shall vest in the Council absolutely free and clear of all estates, interests, or encumbrances whatsoever.

8. In order to provide funds for the payment of compensation or any purchase-moneys payable under 25 the provisions of this Act, or for the construction, erection, acquisition, maintenance, or alteration of laboratories, factories, railway sidings, buildings, or other structures, machinery, plant, fittings, apparatus, appliances, or works, or for the repayment of moneys 30 provided from any source for all or any of such purposes, or for carrying out any of the purposes of this Act, the Council may from time to time borrow moneys by way of special loan by special order under the Local Bodies' Loans Act, 1926, but without taking 35 the steps prescribed by sections nine to thirteen of that Act.

Power to borrow moneys by special loan.

9. (1) Subject to the provisions of the *next succeeding* subsection, it shall not be lawful for any person, whether as principal, agent, or otherwise, on 40 and after such date as may be fixed by resolution of the Council and publicly notified at least once in a daily newspaper circulating in the district by advertisement

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setting forth the object, purport, or general effect of the resolution, to do all or any of the following things:—

- (a) Solicit or receive any order for any milk within the district; or 5
- (b) Sell milk within the district; or
- (c) Send (either from without or within the district) or deliver to any person residing therein, or at any place situated therein, any milk which the person sending or delivering the same has reasonable ground to suspect is intended for use, consumption, or sale therein; or 10
- (d) Deliver milk in the district in pursuance of a contract of sale, whether made within or without the district; or 15
- (e) Bring into the district for use, consumption, or sale therein milk purchased outside the district.

(2) The provisions in the *last preceding* subsection shall apply, notwithstanding anything contained or implied in any license or contract, but those provisions shall not apply to— 20

- (a) The Council or persons so acting for or on behalf of the Council; or
- (b) Persons selling or delivering milk to the Council by arrangement; or 25
- (c) Persons selling or having possession of milk for consumption on the premises of such persons:

Provided such milk is purchased from the Council or a person of the class referred to in *subsection (d)* following; or 30

- (d) Persons selling or delivering milk from a milk-store under an agreement made with the Council and in accordance with the terms thereof. 35

(3) For the purposes of this section “milk” shall not include dried milk, condensed milk, or condensed cream or milk intended for manufacture into butter, cheese, casein, ice-cream, or ice-cream products. 40

(4) In any proceedings under this Act relating to the use, consumption, or sale of milk, if it is proved



that milk is found within the district it shall, until the contrary is proved, be sufficient evidence that such milk is for use, consumption, or sale within the district.

10 **10.** (1) (a) Every person having any estate or Compensation.  
5 interest in any lands taken pursuant to this Act or injuriously affected by any such taking shall be entitled to compensation for the same from the Council.

10 (b) Claims for such compensation shall, if the parties fail to agree thereon, be made and determined within the time and in the manner provided by the Public Works Act, 1928, as if the taking of lands pursuant hereto was for a public work, and in respect of such claims the provisions of that Act shall, with the necessary modifications, apply.

15 (2) (a) Every person having any proprietary or contractual interest in the milk business destroyed or injuriously affected in direct consequence of the provisions of this Act or the exercise of the powers conferred thereby shall be entitled to compensation for  
20 the same from the Council.

(b) Claims for such compensation shall, if the parties fail to agree thereon, be made and determined in the manner provided by the Public Works Act, 1928, for damage done relating to a public work, and in  
25 respect of such claims the provisions of that Act, so far as the same are applicable and not inconsistent herewith, shall, with the necessary modifications, apply as though the references therein to an estate or interest  
30 in land were references to an interest in the milk business.

(3) Any person claiming any compensation hereunder is hereinafter called "the claimant," and the Council is hereinafter called "the respondent."

35 (4) In the assessment of any compensation payable hereunder there shall be taken into account any benefit which has accrued or is likely to accrue to the claimant by reason of the passing of this Act.

40 **11.** In order to obtain compensation under subsection *two* of section *ten* hereof the claimant shall, within *twelve months* from the execution of the works or the happening of the act or the exercise of the power, as the case may be, from which such claim arises, serve Particulars to be inserted in claim for compensation.

upon the respondent, by sending by registered letter addressed to the respondent at its office or by delivering at that office, a claim in writing stating,—

- (1) A full description of the milk business in respect of which he makes his claim, with details of any charges or encumbrances thereon: 5
- (2) The nature and particulars of his proprietary or contractual interest in such milk business:
- (3) The nature, cause, and particulars of the destruction or injurious affection in respect of which he claims: 10
- (4) Each matter on account of which he claims compensation, with full particulars of the nature and extent of each item of the claim: 15
- (5) Where the claim relates to customers, particulars of such customers, with details of the milk-supply relating to each:
- (6) A detailed financial statement correctly recording particulars of the claimant's position in respect of the milk business affected during each of the three years prior to the date when such claim arises, or where the claimant has been interested in such milk business for any less period then for such period: 20 25
- (7) The total amount claimed:
- (8) His full name and address:
- (9) Such further or other particulars as the respondent may require after the manner prescribed by the Public Works Act, 1928. 30

Matters to be considered in determining compensation for milk business.

**12.** In the assessment of the value of any claimant's interest in the milk business for the purpose of determining compensation therefor regard shall be had to the value of such interest at such date (hereinafter called the assessment date), (being not more than *eighteen* months before or after the date mentioned in section *nine* hereof) as may be fixed by the Council for the purpose and publicly notified, and to such of the particulars required by section *eleven* hereof to be stated in the claim as relate to any period before the assessment date: Provided also that regard shall not be had to any subsequent factors affecting such interest unless the Council or, in case of dispute, the 35 40

Court is satisfied that any resulting increase or decrease in the value thereof arises reasonably and *bona fide* in the ordinary course of business.

13. (1) Every Inspector appointed under this Act shall, so far as relates to milk or the milk-supply of the district, have the same powers as an Inspector has under the Dairy Industry Act, 1908, and an officer under the Sale of Food and Drugs Act, 1908, and the like proceedings may be taken by such Inspector with the like incidents and consequences as are provided by the said Acts. Powers of Inspectors.

(2) Every such Inspector shall, in exercise of the powers vested in him by this Act, have power to examine any milk wheresoever situate, as well outside of as within the district, whether actually in transit or not, which he suspects to be intended for use, consumption, or sale in the district, and for that purpose to require any person whom he suspects to be carrying such milk to stop and allow such Inspector to examine any cans or other containers on his vehicle or in his custody or possession.

14. (1) Every person is liable to a fine not exceeding *twenty* pounds who, directly or indirectly, by himself, his agent, or servant— Offences, penalties, and recovery of fines.

- (a) Resists, assaults, or wilfully obstructs any officer or Inspector under this Act in the performance of his duty; or
- (b) Refuses to give information, or gives false information, in answer to any inquiry made by any such officer or Inspector in the performance of his duty; or
- (c) Commits any breach of any of the provisions of this Act; or
- (d) Fails to comply with any lawful requirement of the Council, or does any act or thing to which this Act relates otherwise than as prescribed, or does any act or thing prohibited by the Council under this Act.

(2) All fines recoverable under the provisions of this Act may be recovered in a summary manner under the Justices of the Peace Act, 1927, and when recovered shall be paid to and be the property of the Council.

Breach of contract with Council an offence.

15. Every person who wilfully commits any breach of contract with the Council in respect of the sale or delivery of milk, and every other person who is knowingly concerned in any such breach, shall be guilty of an offence against this Act and shall be liable to a fine not exceeding *twenty* pounds. 5

Relief from contracts impossible of performance by operation of this Act.

16. Where compliance with the terms of any contract relating to the sale, purchase, supply, or distribution of milk is prevented, either wholly or partially, by the operation of this Act or of any by-law or resolution made hereunder, then in respect of such prevention this Act shall be a complete defence to any action on such contract: 10

Provided always that if any party would be precluded by this provision from recovering the price of any goods supplied or remuneration for work done prior to the date of such prevention, such party shall, any rule of law to the contrary notwithstanding, be entitled to recover the fair value of such goods or work. 20

Obligations under certain Acts preserved.

17. Nothing contained in this Act shall relieve any person from the obligation of complying with all the provisions of the Dairy Industry Act, 1908, the Health Act, 1920, and the Sale of Food and Drugs Act, 1908, and of all regulations made under any of the said Acts. 25

Referendum.

18. (1) The Council may cause a poll to be taken within the district on a proposal that the Council be empowered to undertake and control the sale, purchase, and distribution of milk for the Christchurch Metropolitan Milk District. 30

(2) Such poll shall be taken in the manner prescribed by the Local Elections and Polls Act, 1925, which shall be deemed to be incorporated with and to form part of this Act, save that for the purposes of this Act references in that Act to a "district" and "local authority" shall be construed as references to the "district" and "Council" respectively as herein defined: 35

Provided that such poll shall close at seven o'clock in the afternoon of the day appointed for the poll, and not earlier. 40

(3) For the purposes of a poll under this section every person shall be qualified to be enrolled as an elector who is qualified to be enrolled as an elector under the Christchurch Tramway District Act, 1920,  
5 and for such purposes the roll shall be the electoral roll and supplementary electors' roll for the time being remaining in force under the said Act.

(4) The proposal under this section shall be deemed to be carried if a majority of the valid votes recorded  
10 at the poll is in favour of the proposal.

(5) The Governor-General shall not issue any Proclamation under section *one* of this Act unless and until the proposal referred to in this section is carried.