

Colonel Hargest.

SOUTHLAND LAND DRAINAGE AMENDMENT.

[LOCAL BILL.]

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A BILL INTITULED

AN ACT to amend the Southland Land Drainage Act, 1935. Title.

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

1. This Act may be cited as the Southland Land Drainage Amendment Act, 1938, and shall be read together with and deemed part of the Southland Land Drainage Act, 1935 (hereinafter referred to as the principal Act). Short Title.

2. In this Act, if not inconsistent with the context,— Interpretation.

“Farm” means any continuous area of land occupied and used as one holding for agricultural or pastoral purposes, or for both of such purposes. An area of land shall be

deemed to be continuous, notwithstanding that it is severed by a public road or by a railway or river, if it is in fact occupied and used as one holding as aforesaid:

“ Farm-drain ” means as to any farm that part of any drain which, being on the farm, or between the farm and any adjoining farm, or along the side of a road fronting the farm, is used for land-drainage purposes in relation to more than one farm, but does not include that part of any drain which, by reason of the natural fall of the land or by means of artificial drains, is used for land-drainage purposes in relation to an area of land in excess of two thousand acres:

Council empowered to require cleaning-out of farm-drains within the district and to recover the cost and expenses of work done by the Council on farm-drains.

3. (1) In addition to the powers conferred upon the Council by the principal Act, the Council may from time to time, by public notice in the form in the Schedule to this Act, require the occupiers, or in cases where there are no occupiers, then the owners, of all farms within the district to cleanse and remove obstructions from all farm-drains thereon within three months from the publication of such notice.

(2) Such notice shall be published on the same day in at least two newspapers circulating in the district.

(3) If, with respect to any farm-drain within the district, the work required to be done by such notice is not, at the expiration of the period mentioned in subsection one of this section, carried out and completed, the Council may carry out or complete such work on such farm-drain, and the cost of the carrying-out of any work by the Council under this section and all incidental expenses incurred in connection therewith shall—

(a) Constitute a debt forthwith due and payable by the occupier, or if there is no occupier, then by the owner, of the farm upon which is situated the farm-drain or the part of the farm-drain on which such work has been carried out, and shall become and be a charge on the land and may be recovered as rates which have been validly demanded are recoverable under the Rating Act, 1925; and

5 (b) In any case where the farm-drain is situated
 between two farms, be payable in equal
 shares by the occupiers or (as aforesaid) the
 owners of the farms between which such
 farm-drain runs, so that one-half of such
 cost and expenses shall as to each of such
 farms constitute a debt forthwith due and
 payable by the occupier, or if there is no
 occupier, then by the owner thereof, and be a
 10 charge on the land and may be recovered as
 rates which have been validly demanded are
 recoverable under the Rating Act, 1925.

15 (4) For the purposes of this Act a farm-drain
 along the side of a road fronting a farm shall be
 deemed to be situated on such farm.

20 4. In any proceedings brought by the Council under
 this Act for the recovery of any moneys or brought
 against the Council in relation to the exercise or
 purported exercise of any of its powers thereunder,
 a certificate in writing under the hand of any engineer
 employed by the Council that a drain or part of a
 drain is, or was at any time mentioned in such
 certificate, a farm-drain, shall be conclusive evidence
 of that fact.

Certificate of
 Engineer as
 to farm-drain
 to be
 conclusive
 evidence.

25 5. For the purposes of any inspection, investigation,
 or inquiry directed by the Council in relation to any
 power conferred on the Council by this Act or the
 principal Act, and for the purpose of carrying out any
 work authorized by this Act or the principal Act, the
 30 Council, or its surveyors, agents, officers, and workmen,
 may enter upon any lands in the district and may do
 all things necessary or advisable in the opinion of the
 Council for the purpose of the exercise of such powers.

Power of entry
 on lands for
 inspections or
 investigations
 and for
 purpose of
 carrying out
 works
 authorized.

35 6. Expenses incurred by the Council under this
 Act or the principal Act in relation to any drain shall,
 notwithstanding that no work has been carried out on
 such drain by the Council, be recoverable by the Council
 as moneys are recoverable under subsection *three* of
 section *three* of this Act in the following cases,
 40 namely:—

Right to
 recover
 preliminary
 expenses where
 work not done.

(a) Where in the case of any drain a written
 request has been received from the owner or
 occupier of any land for the exercise by the
 Council of any of its powers with respect to

such drain, in which case such expenses shall constitute a debt forthwith due and payable to the Council by such owner or occupier and be recoverable as hereinbefore provided:

- (b) Where such expenses have been incurred owing to the failure of any owner or occupier to cleanse or remove obstructions from a drain in accordance with any notice given under this Act or the principal Act, in which case such expenses shall constitute a debt forthwith due and payable to the Council by such owner or occupier and be recoverable as hereinbefore provided. **5**

Right to
require
payment of
expenses in
advance.

7. The Council may require any person who shall have requested or applied to the Council to exercise any of its powers under this Act or the principal Act as a condition of its considering the request or application to pay to the Council a reasonable sum for engineering, surveying, and other expenses incurred or likely to be incurred in respect of the request or application. **15**

This Act to
bind the
Crown.

8. This Act and the principal Act shall bind the Crown. **20**

SCHEDULE.

Schedule.

Southland [or Wallace] County.

NOTICE TO CLEANSE AND REMOVE OBSTRUCTIONS FROM DRAINS.

THE occupiers, or where there are no occupiers, then the owners, of all farms within the County of Southland [or Wallace] are hereby required to cleanse and remove obstructions from farm-drains upon their farms or on roads adjoining their farms within *three* calendar months from the date of this notice, being the date of the first publication thereof.

The County Council may carry out the work required by this notice in respect to any farm-drain upon which the work has not been done within the period specified, and may recover as rates the cost thereof and all incidental expenses incurred in connection therewith from the occupier or owner of the farm.

“Farm” means any continuous area of land occupied and used as one holding for agricultural or pastoral purposes, or for both of such purposes. An area of land shall be deemed to be continuous, notwithstanding that it is severed by a public road or by a railway or river, if it is in fact occupied and used as one holding as aforesaid.

“Farm-drain” means as to any farm that part of any drain which, being on the farm, or between the farm and any adjoining farm, or along the side of a road fronting the farm, is used for land-drainage purposes in relation to more than one farm, but does not include that part of any drain which, by reason of the natural fall of the land or by means of artificial drains, is used for land-drainage purposes in relation to an area of land in excess of two thousand acres.

“Obstructions” includes all obstructions of any kind calculated to impede the free flow of water in a drain, including earth, stone, timber, and material of all kinds, and trees, plants, weeds, and growths of all kinds.

By order of the Southland [or Wallace] County Council.

Dated this day of , 19 .

County Clerk.