

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

*House of Representatives, 24 August 1960*

Words struck out by the Local Bills Committee are shown in italics within bold round brackets or in roman enclosed in panel: words inserted are shown in roman underlined with a double rule, or with double rule down side.

*Mr Pickering*

## 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 1960, 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. Allowance to Chairman**—The principal Act is hereby amended by inserting, after section 19, the following section:  
“19A. (1) The Chairman may be paid out of the funds of  
15 four hundred pounds, as may from time to time be fixed by

the Board, but no alteration in the amount of the allowance shall take effect during the term of office of the Chairman for the time being.

“(2) For the purpose of this section a person re-elected Chairman pursuant to section 19 of this Act shall be deemed a new Chairman.” 5

**3. Registration of line of drain or sewer constructed on private lands**—Section 28A of the principal Act (as enacted by section 3 of the Christchurch District Drainage Amendment Act 1957) is hereby amended by adding to subsection (2), the following paragraph: 10

“(e) After notices under the provisions of paragraph (b) of this subsection have been given and all objections disposed of, the Board may cause a certificate over the signature of its Secretary describing such drains or sewers and with a plan defining the line of the same endorsed thereon to be prepared and deposited in the office of the District Land Registrar or the Registrar of Deeds at Christchurch; and where the land referred to in such certificate is subject to the Land Transfer Act 1952, the District Land Registrar shall register against the title to the land a memorial of such certificate, and in every other case the Registrar of Deeds shall cause an entry thereof to be made under the proper head or title in the index book of the Deeds Register Office: 15 20 25

*Struck Out*

“Provided that if at any time after the issue of a certificate under the provisions of this paragraph it is found that the line of such drain or sewer will not pass through such land or any part thereof or that an error in form or substance exists in or in relation to such certificate the Board may, by the depositing at the office of the District Land Registrar at Christchurch of a subsequent certificate, revoke the former certificate wholly or in so far as it thinks necessary, and the former certificate shall thereupon to the extent to which it has been so revoked be void and of no effect as from the date thereof as if it had not been issued or made; and any registration which has been effected by the District Land Registrar shall thereupon be cancelled and be deemed to have been of no effect as from the date of the making of the former certificate to the same extent to which the said certificate has been so revoked: 30 35 40 45

*New*

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“Provided that, if at any time after the issue of a certificate under the provisions of this paragraph it is found that the line of such drain or sewer will not pass through such land or any part thereof or that an error in form or substance exists in or in relation to such certificate, the Board may revoke the certificate wholly or so far as it thinks necessary by the depositing at the office of the District Land Registrar or the Registrar of Deeds at Christchurch of a subsequent certificate, and the former certificate shall thereupon to the extent to which it has been so revoked be void and of no effect as from the date thereof as if it had not been issued or made; and any registration which has been effected by the District Land Registrar and any entry in the index book which has been made by the Registrar of Deeds shall thereupon be cancelled by the Registrar concerned and be deemed to have been of no effect as from the date of the making of the former certificate to the extent to which the said certificate has been so revoked:

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“Provided also that the District Land Registrar shall be under no obligation to note the registration against the duplicate original copy of any certificate of title affected nor to call in the duplicate for that purpose.”

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**4. Diversion of sewers, etc.**—The principal Act is hereby amended by inserting after the said section 28A, the following section:

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“28B. (1) If any person proposes to erect any building or to carry out any works in such location and at such levels that the diversion, alteration, or replacement of any of the sewers, drains, or other structures of or under the control of the Board appears to be essential to the construction of any such building or works, that person shall notify the Board of his proposals, and if the Board is satisfied that it is practicable for its sewer, drain, or structure to be diverted, altered, or replaced without material interference with the services for which it is responsible and that it is reasonable that this be done, it may enter into an agreement with that person as to the manner and condition under which the sewer, drain, or structure shall be diverted, altered, or replaced.

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“(2) The cost of diverting, altering, or replacing the sewer, drain, or other structure of or under the control of the Board, or such part of the cost as the Board shall determine and all other costs which the Board may incur in any wise incidental thereto, shall in such case be paid to the Board by that person.”

**5. Vesting of watercourses**—Section 36 of the principal is hereby amended by adding the following proviso:

“Provided that this section shall not operate and shall be deemed never to have operated so as to vest the fee simple of any land in the Board.” 5

**6. Removal of obstructions**—(1) Section 41 of the principal Act is hereby amended:

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(a) By omitting, from paragraph (a) of subsection (1), the word “tree”, and substituting the word “plant”: 10

*New*

|| (a) By inserting in paragraph (a) of subsection (1), after the word “hedge”, the word “plant”.

(b) By adding, to paragraph (a) of subsection (1) the words “or to enable the convenient cleaning, repair, 15 or inspection thereof”:

*Struck Out*

(c) By omitting, from subsection (7), the words “‘Plant’ means gorse, sweet briar, blackberry, acacia, broom, or fennel” and substituting the words “‘Plant’ means 20 trees, shrubs, gorse, sweet briar, blackberry, acacia, broom, and fennel”.

**7. Powers of Board to require works to be carried out**—

(1) Section 42 of the principal Act is hereby amended by inserting, after subsection (1), the following subsections: 25

“(1A) The Board may, in the exercise of the powers conferred upon it by subsection (1) of this section, instead of requiring several owners each to provide, construct, and lay a private drain, and to connect that private drain with any public drain or sewer as provided in that subsection, require 30 those owners—

“(a) Jointly to provide, construct, and lay a common private drain through such of the separately owned lands as the Board thinks fit, and to connect that private drain with any public drain or sewer as aforesaid; 35 and

“(b) Severally to provide, construct, and lay a private drain from the land or building of which each is the owner, and to connect the same with the common private drain. 40

“(1B) The powers conferred upon the Board by paragraphs (b), (c), (d), (e), and (g) of subsection (1) of this section may also be exercised with respect to private drains provided, constructed, and laid under subsection (1A) of this section, whether provided, constructed, and laid before or after the 45 commencement of this subsection”.

New

“(1c) Notwithstanding anything contained in subsections (1), (1A), and (1B) of this section, no owner shall be required—

5 “(a) To construct any private drain, other than a common drain, to connect with any public drain or the sea at a point more than one hundred feet from his land; or

10 “(b) To construct any private drain for the drainage of a building if the nearest part of the building is situated more than two hundred feet from the public drain, watercourse, street channel, or sea to which it is required to be connected.”

15 (2) Section 42 of the principal Act is hereby further amended by repealing paragraphs (c), (d), and (e) of subsection (5), and substituting the following paragraph:

20 “(c) Any notice, demand, order, requirement, or direction required or authorised by the said Acts or the said bylaws to be given or made by the Board, or by any officer thereof, may be served in the manner referred to in section 71A of this Act.”

**8. Special provisions as to private drains serving several separately owned premises—**

The principal Act is hereby amended by inserting, after section 42, the following section:

25 “42A. (1) Where any (*existing*) private drain, whether provided, constructed, and laid before or after the commencement of this section, passes through or serves several separately owned premises, or any new private drain is required by the Board so to pass through or serve such premises, the Board  
30 may, pursuant to a resolution in that behalf of which notice shall be given to the owners of the lands affected, execute, provide, and do all or any of the works, materials, and things which the Board deems necessary in order that the drain shall be efficient and without nuisance.

35 “(2) The Board may impose upon the owners of the several premises all or any part of the cost of the works, materials, or things in such proportions as the Secretary certifies to be reasonable.”

**9. Removal of obstructions—**

40 (1) Section 43 of the principal Act is hereby amended—

(a) By omitting, from subsection (1), the word “immediate”:

45 (b) By inserting in subsection (3) after the word “within”, the words “such time as is specified in the order not being less than”.

**10. Advances to tenants**—(1) Section 49 of the principal Act is hereby amended—

- (a) By inserting, after the words “this Act” where they secondly occur, the words “or a tenant thereof”.
- (b) By inserting, after the word “owner” where it secondly occurs, the words “or that tenant”.

(2) Section 49 of the principal Act is hereby further amended by adding, as subsection (2), the following subsection:

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“(2) For the purposes of this section, the term “tenant” means a purchaser under section 16 of the Housing Act 1955, and a licensee under section 17 of that Act, where the agreement for sale or licence as the case may be has been registered under section 18 of that Act; and also includes a lessee or licensee under section 63 or section 65 of the Land Act 1948.”

*New*

“(2) For the purposes of this section the term “tenant” means—

- “(a) A purchaser under section 16 of the Housing Act 1955, and a licensee under section 17 of that Act, where the agreement for sale or the licence, as the case may be, has been registered under section 18 of that Act:
- “(b) A lessee under section 330 of the Municipal Corporations Act 1954:
- “(c) A purchaser under section 330 of the Municipal Corporations Act 1954 where the agreement for sale has been registered under section 348 of that Act:
- “(d) A lessee under section 349 of the Counties Act 1956:
- “(e) A purchaser under section 349 of the Counties Act 1956 where the agreement for sale has been registered under section 367 of that Act:
- “(f) A lessee or licensee under section 63 or section 65 of the Land Act 1948.”

**11. Definition and advertising of special areas**—(1) Section 60 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) The definition and creation of a special area and the division of the district or any special area into subdivisions shall be by a resolution of the Board. The resolution shall define the boundaries of the special area or of the subdivisions, as the case may be, and the said boundaries, and any altered boundaries, shall be marked on a map or maps, which shall be kept at the office of the Board and shall be

available for inspection by any elector during the ordinary office hours of the Board. Upon the passing of such a resolution, the Board shall cause a notice to be published in the *Gazette* and at least twice in a daily newspaper circulating  
5 in the district giving a summary in outline of the content thereof and referring to the said map or maps and stating where the same may be inspected”.

(2) Section 60 of the principal Act is hereby further amended by repealing subsection (6) and substituting the  
10 following subsection:

“(6) The Board may from time to time by resolution alter the boundaries of any special area or subdivision, and shall thereupon publish in respect of such resolution a notice in the form and manner required by subsection (3) of this  
15 section:

“Provided, that, after any special rate or rates shall have been appropriated or pledged as security for any loan, no amendment of boundaries shall affect the incidence or amount of the said special rate or rates.”

20 **12. Service of notices, etc.**—The principal Act is hereby amended by adding, after section 71, the following heading and section:

*“Service of Notices*

25 “71A. (1) Any order, notice, or demand required or authorised by this Act to be given or sent to or served upon any person shall be delivered to that person, and may be delivered to him either personally or by posting it by registered letter addressed to that person at his last known place of abode or business in New Zealand. A notice so posted shall be deemed  
30 to have been served at the time when the registered letter would in the ordinary course of post be delivered.

“(2) If the person is absent from New Zealand, the notice may be delivered as aforesaid to his agent in New Zealand. If he is deceased, the notice may be delivered as aforesaid  
35 to his personal representative.

“(3) If that person is not known, or is absent from New Zealand and has no known agent in New Zealand, and the order, notice, or demand relates to any land or building, the order, notice, or demand, addressed to the owner or occupier  
40 of the land or building, as the case may require, may be served on the occupier thereof, or left with some inmate of his abode; or, if there is no occupier, may be put up on some conspicuous part of the land or building. It shall not be necessary in any such notice to name the occupier or owner of the  
45 land or building.”

13. **Offences**—The principal Act is hereby amended by inserting, after section 86, the following heading and section:

*“Offences*

“86A. Any person doing anything contrary to the provisions of this Act or any bylaw made hereunder, or omitting or failing to perform any duty imposed on him by or arising under this Act or any such bylaw, shall be guilty of an offence, and in cases where no other penalty is provided shall be liable to a fine not exceeding fifty pounds, and whenever such act or omission is of a continuous nature a further offence shall be deemed to be committed on each day on which it is continued; and whenever power is given by this or any other Act or any bylaw to order anything to be done or omitted, an offence shall be deemed to be committed on each day on which any person disobeys or fails to comply with any such order; and in all cases in which property is damaged, destroyed, or lost, or pecuniary loss is suffered by reason of an offence, the Court may add to the fine compensation for any loss the Board may have sustained: 5  
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Provided that such compensation, unless awarded at the express request of the Board, shall not, excepting as to the amount thereof, relieve such person of any civil liability in respect of his act or omission”. 20

14. **Operation of by-laws**—The principal Act is hereby amended by inserting, after section 81, the following section: 25

“81A. (1) Any bylaw made by the Board shall, within the district, override any bylaws on the same subject made by any constituent authority.

“(2) Any constituent authority may, with the consent of the Board, undertake within its own area the enforcement and administration of any bylaws made by the Board, and in such cases all fines imposed for breaches of the Board’s bylaws within the area of such constituent authority shall, subject to the provisions of section 109 of the Public Revenues Act 1953 (as enacted by section 3 of the Public Revenues Amendment Act 1958) be paid to the constituent authority and be dealt with by it as if they were fines imposed in respect of breaches of the bylaws of such constituent authority. 30  
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“(3) For the purposes of this section the term ‘constituent authority’ means the local authority of any local district the whole or any part of which is for the time being comprised within the district of the Board and the term ‘local district’ means the district of a city, borough or county.” 40