

Mr. Acland

SOUTH CANTERBURY CATCHMENT BOARD

[LOCAL BILL]

ANALYSIS

Title.	
1. Short Title.	6. Revenues of certain reserves to be paid to Board.
2. Interpretation.	7. Abolition of special powers of Ashburton County Council and disposition of property, &c.
3. Control and upkeep of water-courses in South Canterbury Catchment District.	8. Creditors not to be affected.
4. Abolition of Geraldine County River District and disposition of property, &c. Repeals.	9. Validating rates heretofore levied on Allenton.
5. Adoption by Catchment Board of classification by Geraldine County River Board.	10. Setting out and validating agreement as to contributions by Borough Council for river protection works. Schedules.

A BILL INTITULED

AN ACT to vest in the South Canterbury Catchment Board the Control of all Watercourses in the South Canterbury Catchment District; to validate certain Rates struck by the Ashburton County Council for River-control Purposes and to make other provision relating to the South Canterbury Catchment District. Title.

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BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority

10 of the same, as follows:—

1. This Act may be cited as the South Canterbury Catchment Board Act, 1946. Short Title.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“Borough” means the Borough of Ashburton:

“Borough Council” means the Ashburton Borough Council: 5

“Catchment Board” means the South Canterbury Catchment Board:

“County” means the Ashburton County:

“County Council” means the Ashburton County Council: 10

“Principal Act” means the Soil Conservation and Rivers Control Act, 1941:

“River Board” means the Geraldine County River Board.

Control and
upkeep of
watercourses in
South
Canterbury
Catchment
District.

3. (1) All watercourses within the South Canterbury Catchment District, whether natural or constructed or hereafter to be constructed, together with all machinery and appliances used therewith, but excepting therefrom all constructed water-supply and stock races which are under the control of any local authority, shall be under the exclusive care, control, and management of the Catchment Board. 15
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(2) In the event of a dispute arising as to whether any watercourse is a constructed water-supply or stock race under the control of any local authority within the meaning of the *last preceding* subsection, the same shall be decided by the Soil Conservation and Rivers Control Council, whose decision shall be final and binding on all parties. 25

(3) Where a natural watercourse is used as a water-supply or stock race, the County Council or other local authority concerned shall contribute such proportion of the cost of maintenance of the watercourse as shall be determined by agreement between the Catchment Board and the County Council or other local authority concerned. 30
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(4) In the event of the parties failing to agree as to the proportion payable under the provisions of the *last preceding* subsection, the same shall be determined by the Soil Conservation and Rivers Control Council, whose decision shall be final and binding on all parties. 40

(5) The provisions of this section shall not be construed in any way to restrict or interfere with the power of any local authority to levy rates or make charges in respect of constructed water-supply and stock races under its control.

(6) This section is in substitution for the Order in Council made pursuant to section one hundred and thirty of the principal Act on the twentieth day of March, nineteen hundred and forty-six, and published in the *Gazette* on the twenty-first day of the same month at page three hundred and fifty, and that Order in Council is hereby accordingly revoked.

4. (1) The Geraldine County River District constituted under the Geraldine County River District Act, 1921-22, is hereby abolished, and the River Board of that district is hereby dissolved.

Abolition of Geraldine County River District and disposition of property, &c.

(2) On the passing of this Act all property, debts, liabilities, and engagements of the River Board dissolved as aforesaid shall vest in and become the property, debts, liabilities, and engagements of the Catchment Board, and all rates and other moneys payable to the River Board so dissolved shall become payable to the Catchment Board, and all actions and proceedings which are then pending or which might thereafter have been instituted by or against the River Board so dissolved if it had continued to exist may be carried on or instituted by or against the Catchment Board.

(3) The Geraldine County River District Act, 1921-22, section one hundred of the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1923, and the Geraldine County River District Amendment Act, 1938, are hereby repealed.

Repeals.

5. (1) The Catchment Board may, by special order, declare that any specified classification of the lands in the Geraldine County River District made by the River Board for rating purposes, and the proportions fixed in relation thereto, shall continue in force as if they were a classification made and proportions fixed pursuant to the principal Act specially for the purposes of a separate rate upon all property liable to be rated within that portion of the catchment district which on the passing of this Act comprised the Geraldine County River District.

Adoption by Catchment Board of classification by Geraldine County River Board.

(2) The classification and proportions so continued in force may from time to time be amended as provided in section one hundred and five of the principal Act.

Revenues of certain reserves to be paid to Board.

6. All revenues derived from the reserves described in the *First* and *Second* Schedules to this Act shall be paid to the Catchment Board by the Receiver of Land Revenue for the Land District of Canterbury in such manner and at such times as the Minister of Lands may direct, and shall not be paid into the Public Account. 5

Abolition of special powers of Ashburton County Council and disposition of property, &c.

7. (1) The Ashburton Rivers Act, 1936, is hereby repealed. 10

(2) On the passing of this Act the Controller and Auditor-General, or such other person as the Governor-General shall appoint, shall hold an inquiry and make an award apportioning such property, debts, liabilities, and engagement of the Corporation of the county and the County Council as relate to the exercise of its functions under the Ashburton Rivers Act, 1936, between the South Canterbury Catchment Board and the North Canterbury Catchment Board. 15 20

(3) Any such award may provide for all or any of the matters included in the subject for inquiry, and may declare in whom any property shall be vested and by whom any moneys shall be paid, including the payment of the whole or any part of the expenses of the inquiry; and the person making the award may make and give such directions generally as may be necessary for giving full effect to the objects of the inquiry. 25

(4) Every such award shall be final and shall, from the date thereof, have the operation of and be enforceable as a judgment of the Supreme Court. 30

Creditors not to be affected.

8. Nothing in the foregoing provisions of this Act shall in any way affect the rights or interests of any debenture-holder or other creditor of the River Board, or of the County Council in relation to its functions under the Ashburton Rivers Act, 1936, or shall affect any special rate. 35

Validating rates heretofore levied on Allenton.

9. Whereas the Ashburton Rivers Act, 1936, conferred upon the County Council all the powers conferred on a River Board as if the county were a duly constituted river district: And whereas by Order in Council made on the twenty-ninth day of March, nineteen hundred and thirty-nine, and published in the *Gazette* on 40

- the thirtieth day of March, nineteen hundred and thirty-nine, at page seven hundred and fifty-five, certain lands described in the said Order in Council (herein referred to as the district of Allenton) which previously had
- 5 formed part of the county were included in the borough, and as from the first day of April, nineteen hundred and thirty-nine, ceased to form part of the county: And whereas by special order on the fifth day of May, nineteen hundred and thirty-nine, the County Council,
- 10 acting in pursuance of the powers conferred upon it by the above-mentioned Acts, defined a subdivision of the county, including in such subdivision the district of Allenton: And whereas by special order on the seventh day of March, nineteen hundred and forty-one, the
- 15 County Council, acting in pursuance of the said powers, defined a further subdivision of the river district, including in such subdivision the said district of Allenton: And whereas on the first day of March, nineteen hundred and forty, the County Council made
- 20 and levied special rates upon the lands included in the said subdivisions to provide for the capital costs of certain river protection works and interest payments and a sinking fund connected therewith: And whereas
- 25 on the sixth day of July, nineteen hundred and forty-five, the County Council made and levied special rates upon the lands included in such subdivisions to provide for the capital costs of river protection works and interest payments and a sinking fund connected therewith: And whereas the rates made and levied over the
- 30 District of Allenton have been collected by the Borough Council on behalf of the County Council since that district became part of the borough: And whereas doubts have arisen as to the validity of the subdivisions hereinbefore recited and of the aforesaid special rates,
- 35 so far as they affect the district of Allenton: And whereas the Ashburton Rivers Act, 1936, is repealed by this Act and it is desirable to make provision in manner hereinafter appearing: Be it therefore enacted as follows:—
- 40 (1) The district of Allenton shall be deemed to have remained a part of the Ashburton County River District, notwithstanding its inclusion in the borough.

(2) All subdivisions defined, classifications made, rates made and levied, and all other powers exercised by the County Council under the provisions of the Ashburton Rivers Act, 1936, over the district of Allenton shall be deemed to have been lawfully defined, made, levied, and exercised. 5

(3) The Borough Council shall be deemed to have always been lawfully empowered to act as collecting agency on behalf of the County Council and to pay over to the County Council all rates made and levied by the County Council over the district of Allenton, subject to the deduction by the Borough Council of ten pounds per centum of the amount so collected to cover the costs and expenses of and incidental to such collection. 10
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Setting out
and validating
agreement as to
contributions
by Borough
Council for
river protection
works.

10. Whereas the special rates made and levied as recited in section *nine* hereof are security for the following special loans to the County Council—that is to say, a loan of three thousand five hundred pounds expiring on the fourth day of October, nineteen hundred and fifty; a loan of one thousand pounds expiring on the fourth day of October, nineteen hundred and fifty; a loan of one thousand pounds expiring on the first day of October, nineteen hundred and fifty-one; and a loan of nine thousand pounds expiring on the first day of December, nineteen hundred and sixty-one: And whereas the Borough Council has agreed with the Catchment Board and the County Council to contribute towards the capital costs of the river protection works hereinbefore referred to and the maintenance thereon in the manner hereinafter set forth: And whereas it is desirable that the local authorities concerned shall be empowered to carry such agreement into effect: Be it therefore enacted as follows:— 20
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(1) The Borough Council shall, as from the first day of April, nineteen hundred and forty-six, pay to the Catchment Board annually thirty-three and one-third per centum of the interest payments and sinking fund payable in respect of the special loans hereinbefore recited. 35
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(2) The Borough Council shall, as from the first day of April, nineteen hundred and forty-six, pay to the Catchment Board annually thirty-three and one-third per centum of the maintenance costs which since that

date have been, or shall be, incurred in maintaining in good order and condition the river protection works which have been, or shall be, constructed out of the proceeds of the special loans hereinbefore recited.

5 (3) The balance of the said interest payments, sinking fund, and maintenance costs aforesaid shall be collected from the lands forming part of the county and included in the subdivisions referred to in the *last preceding* section in accordance with special rates
10 already made and levied.

(4) The provisions of this section shall not be construed to affect the validity of the special rates already made and levied or the rights of the debenture-holders of the said special loans to enforce payment of the
15 amounts due to them in any lawful manner.

(5) The contributions payable by the Borough Council as aforesaid shall be payable upon demand being made in writing to the Borough Council by the Catchment Board or some person or persons authorized
20 thereby:

Provided that the demand shall specify the period in respect of which the contributions are payable.

(6) The Borough Council may—

25 (a) Make and levy, on all rateable property within the borough, equally, without classification, in accordance with the system of rating for the time being in force in the borough, a rate calculated to yield the amount of its contributions together with an additional amount
30 sufficient to cover all reasonable costs and expenses incurred in and about making and levying, collecting, and recovering the rates, and a reasonable remuneration for clerical and other work:

35 (b) Pay to the Catchment Board, if it thinks fit, out of the General Account of the Borough Council the amount of its contributions.

(7) If any contributions are not paid in full on or before the thirty-first day of March next following the
40 date of the demand, the Catchment Board may recover the amount unpaid in any Court of competent jurisdiction as a debt due and owing by the Borough Council,

(8) If the area of the borough shall be increased by including any lands forming part of the subdivisions hereinbefore recited, or decreased by excluding any lands now forming part of the borough, or if there shall at any time be a revaluation under the Valuation of Land Act, 1925, of all the lands forming part of the county and comprised in the said subdivisions, or of the borough, and as a result of the increase or decrease or of the revaluation the proportion which the capital value of all lands in the borough for the time being bears to the capital value of the lands otherwise included in the said subdivision shall be substantially altered, the proportion which the borough shall contribute in accordance with the foregoing provisions of this section shall be altered, subject to the following provisions:—

- (a) No such alteration shall be made unless and until the Catchment Board resolves that in its opinion the aforesaid proportion has substantially altered in accordance with the provisions hereinbefore contained: 20
- (b) If, upon receipt of notice of such resolution, the Borough Council and the County Council do not, within the space of two calendar months, either agree that no alteration shall be made in the proportions payable as aforesaid or agree as to the proportions which should be payable consequent upon such increase, decrease, or revaluation as aforesaid and the day on which the new proportion shall come into effect, the dispute shall be submitted to arbitration, and the Borough Council and the County Council shall each appoint one disinterested person as an arbitrator, and the Catchment Board shall appoint an umpire (not being an employee or member of the Catchment Board), who shall make the decision alone if the arbitrators are unable to agree; and such arbitration, except as herein expressly provided, shall be conducted under the provisions of the Arbitration Act, 1908; 40

5 (c) If the said proportion shall be altered either by
agreement or by arbitration in accordance
with the foregoing provisions, notice of the
new proportion, and of the day on which such
new proportion shall come into effect, shall
be published in the *Gazette*, and the foregoing
provisions of this section shall apply and take
effect as if the new proportion were inserted
10 therein in lieu of the proportion of thirty-
three and one-third per centum hereinbefore
provided for.

Schedules.

SCHEDULES

FIRST SCHEDULE

RESERVES VESTED IN GERALDINE COUNTY RIVER BOARD.

Reserve.	Area.	Block.	Survey District.	Gazette No.	Vesting Page.	Date.	Reserve brought under Land Act, 1924 (Section 367 of Land Act, 1924).
2748 (part)	A. R. P. 30 1 0	III	Kapunatiki	70	2607	30/10/24	Gazette 37, 18th May, 1933, page 1368.
2979	108 2 0	VI	Geraldine	78	3136	5/11/25	Ditto.
2833 (part)	155 0 0	VIII	Orari	78	3136	"	"
2901	22 0 0	IV	Geraldine	71	3179	16/10/30	"
2751	153 0 0	III	Kapunatiki	71	3179	"	"
2884	232 0 0	II	"	71	3179	"	"
2888	144 0 0	II	"	71	3179	"	"
2899	57 0 0	VIII	Geraldine	71	3179	"	"
2886	52 0 0	IV	"	71	3179	"	"
2885	21 0 0	IV	"	71	3179	"	"
2879	5 1 8	IV	"	71	3179	"	"
100 (part)	79 3 0	IV	Kapunatiki	16	475-76	5/3/31	"
1486 (part)	39 0 0	IV	"	16	475-76	"	"
1071 (part)	5 3 0	IV	Pareora	61	2822	20/8/31	"
3417 (part)	5 3 0	IV	"	61	2822	"	"
4282	7 1 18	VI	Geraldine	34	1235	2/5/35	Gazette 64, 6th September, 1935, page 2407.
4314	239 2 0	IV	"	34	1235	"	Ditto.
4318	9 0 20	IX	"	34	1235	"	"
4319	1 3 20	XIII	"	34	1235	"	"
4283	19 0 0	IV	Pareora	34	1235	"	"
4288	141 0 20	XIV	Ophi	34	1235	"	"
4295	110 1 18	V, VII, VIII	Orari	34	1235	"	"
4296	33 3 30	VII, VIII	"	34	1235	"	"
4297	30 1 30	V	"	34	1235	"	"
4298	14 2 18	II	Arowhenua	34	1235	"	"
2156	6 2 32	VIII	Orari	34	1235	"	"
2759	2 0 20	IX	Geraldine	34	1235	"	"
1298	2 2 0	VI	"	34	1235	"	"
2488	16 3 0	IV, X	"	34	1235	"	"
				Vested in South Orari River Conservators, Gazette, 1891; now in Geraldine River Board under section 9 (2) and (3) of 1921-22 Act			

SECOND SCHEDULE

RESERVES SUBJECT TO SECTION 7 OF THE GERALDINE COUNTY RIVER BOARD ACT, 1921, BUT NOT VESTED IN THE RIVER BOARD.

Reserve.	Area.			Block.	Survey District.
	A.	R.	P.		
2898	135	0	0	IV, VII	Geraldine.
2750	91	2	0	IV	Kapumatiki.
2897	29	0	0	III	"
2746 (part)	134	2	0	III	"
2747 (part)	450	3	0	III	"
2896	24	0	0	III	"
2749	27	1	0	III	"
2883 (part)	171	0	0	II	"
2895	57	0	0	III	"
2889	34	0	0	II	"
2890	38	0	0	III	"
2887	239	0	0	VIII	"
2892	200	0	0	VIII	Geraldine.
2893	31	0	0	VIII	"
2894	18	0	0	VIII	"
2900	16	0	0	XII	"
2891	39	0	0	IV, VII	"