



LC 3/2/7

16 October 1989

To All MPs

Dear Sir/Madam

CONSERVATION LAW REFORM BILL - MARGINAL STRIPS

The Corporation recently presented a detailed submission to the Select Committee considering this Bill.

We have attached for your information an outline of our concerns relating to the Bill's proposals in relation to marginal strips.

Our main concerns are that:

- (i) The Bill will create land title confusion.
- (ii) It will create difficulties for farmers who have marginal strips included in their holdings, by extending the definition of a lake to cover any area likely to be flooded. For instance, in some cases the size of the area defined as a lake may triple to include land that is flooded for a few days once in a hundred years.
- (iii) The Bill provides no continuity of public access to rivers and streams where public land, other than a marginal strip such as an unformed legal road, is involved.

The Corporation is keen to see effective legislation passed as soon as possible to enable it to gain title to the lands it has purchased from the Crown.

In our opinion, however, the present Bill is inadequate. We have attached for your information our suggestions as to how the Bill could be improved.

Landcorp supports public recreational use of its rural properties and is keen to see the spirit of the marginal strips protected. We are keen to ensure, however, that protection is workable from a productive and legal perspective.

If you have any further queries please do not hesitate to contact the Corporation (the undersigned or Mr Gavin Muirhead).

Yours faithfully

G McMillan
Chief Executive

Head Office
Landcorp House
101 Lumbton Quay
P.O. Box 1700
Wellington
New Zealand
Telephone (04) 710-900
Fax (04) 734-966



CONSERVATION LAW REFORM BILL 1989

PROVISIONS RELATIVE TO MARGINAL STRIPS

Present Law

Requires 20 metre strip along banks of seacoast, lakes over 8 hectares at normal level, and rivers/watercourses of an average width of 3 metres upon disposal of land by the Crown.

The strips to be excluded from titles. This causes problems of management, water rights, weed and pest control.

Necessitates surveying off the strips to enable issue of title to adjoining lands. Costs in \$millions.

(Note: Large number of streams unlikely to be of any conservation or recreational interest. Exclusion from title unnecessary and cost of survey unjustified.)

Width of marginal strips under Conservation Act 1987 may be reduced but no total waiving possible.

Section 58 strips under Land Act 1948 can be waived under certain conditions.

Proposed Law

The definitions change.
Lake to be at maximum flood level.

Strips to be included in titles of adjoining land to avoid survey need but land still owned by Crown.

To be limitations on use and development by titleholder.

Strips can be resumed by Minister of Conservation

Strips can be sold after resumption subject to advertising and calling for objections.

No provision for reductions in width.

To apply to all dispositions of Crown Land. Will include dealings in pastoral leases.

Strips move with river flows and "lakes" move outwards with each longer interval flood.

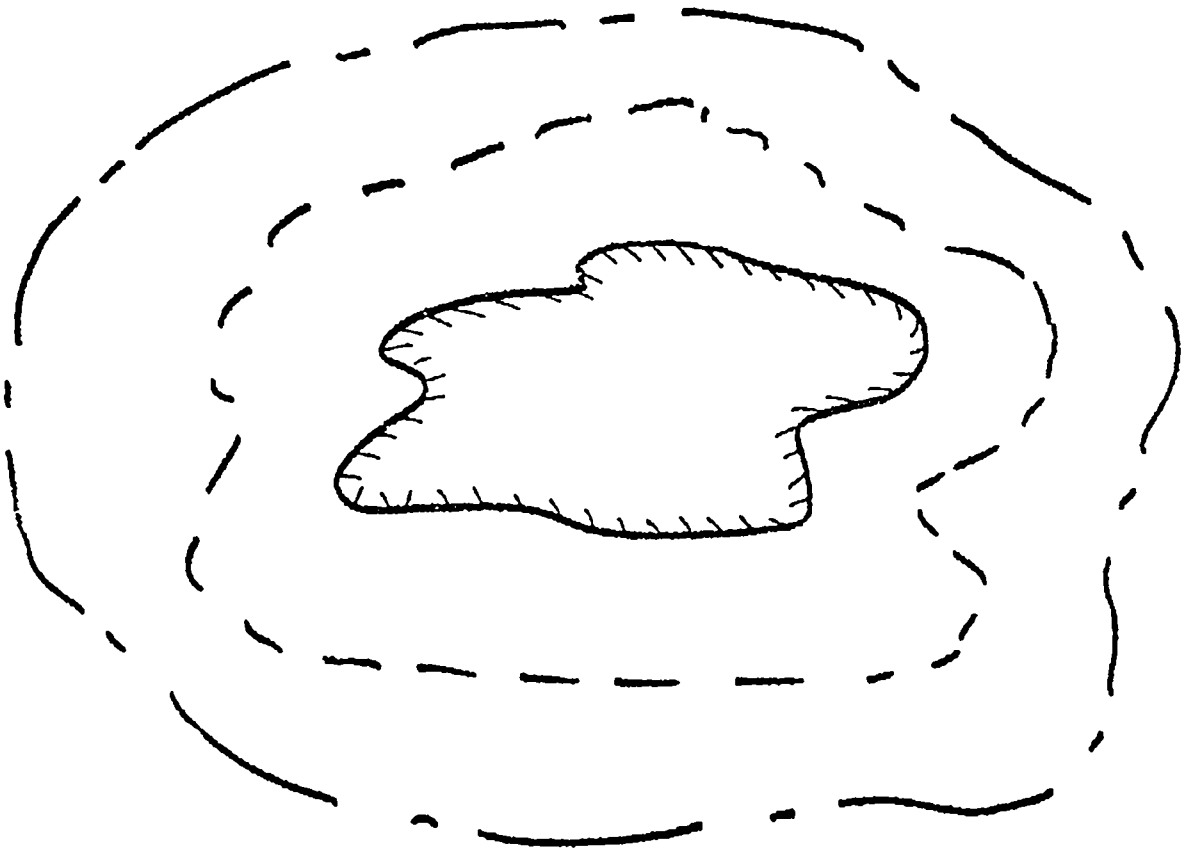
MAJOR ADVERSE RAMIFICATIONS FOR LANDHOLDERS

- legislation will apply to all disposals of Crown Lands. This will include titles arising from reclassification or recategorisation of pastoral leases
- the title situation will be confusing to all parties
- duplication of status and control
- definitions of riverbed and lakes are lacking in clarity and will lead to confiscatory situation. "Edge" of river or lake not defined by any recognised authority
- definition of "maximum flood level" for lakes will in particular result in large areas of farmed land infrequently covered by water being either excluded from titles or included as giant marginal strips
- a marginal strip will move into the adjoining title if and when the river changes course
- moving riverbeds will create nonsensical situations where no continuity of public access rights
- legislation will be inconsistent with related legislation such as Land Act and Local Government Act
- no requirement for equal consideration of production as opposed to conservation/recreation values, in fact heavily slanted against production
- inadequate period of notice for resumption of strips by the Minister of Conservation
- title to subdivided land nowhere near watercourse will still be tagged as subject to marginal strips legislation
- "grey" areas in matters such as responsibility for fire prevention and control; titleholder will have to meet rates and other local authority charges, for land included in title but not owned

LANDCORP'S SUGGESTIONS

- * incorporate precise, understandable and identifiable definitions of bed in respect of rivers and lakes with Department of Survey and Land Information to determine
- * revert to normal level definition of lake to avoid extensive loss of producing land
- * move away from the cumbersome and confusing duality of land ownership whereby land is included in someone's title but purports to remain owned by Crown
- * grant title to edge of defined river bed but with rights, analagous to an easement in gross in favour of the public, reserved in law to the Crown and noted on title
- * where specific lengths of riverbank or sites within marginal strips are identified as having significant natural values requiring protection Minister of Conservation to have right to acquire without compensation to the land owner but with Crown meeting all costs
- * address matter of uniformity of approach with other statutory provisions.

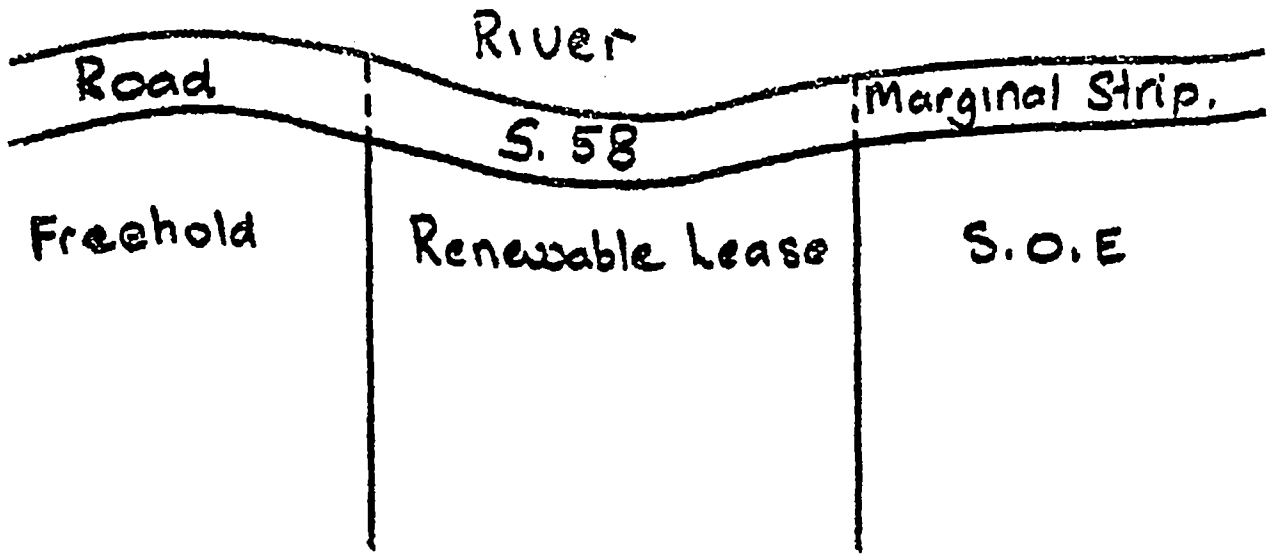
Clause 24 (1) (b)



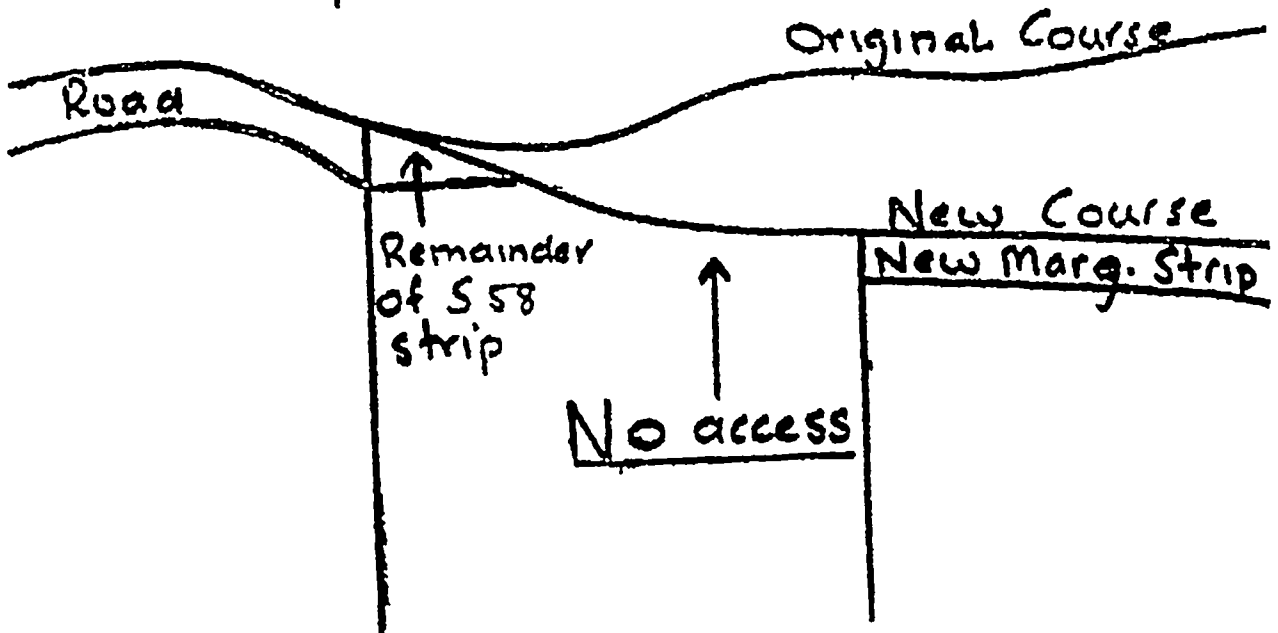
- Normal Level - Covers 10ha
- - - 1956 max. flood, 20ha
- - - 1996 max. flood, 30ha?

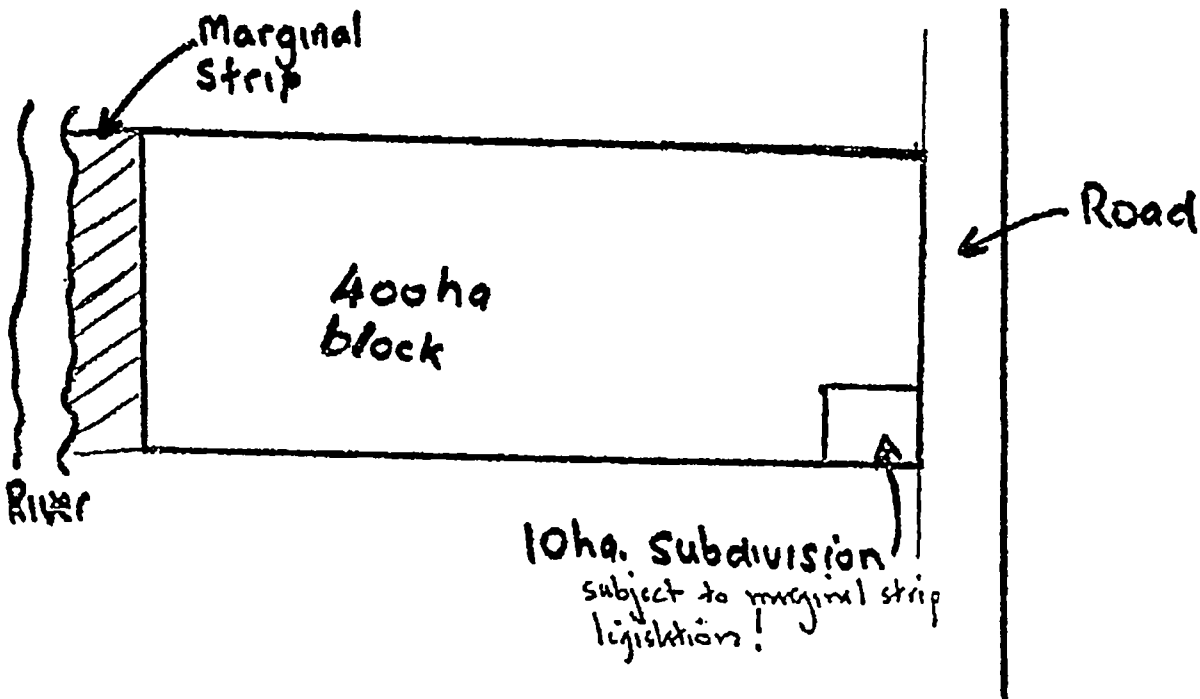
Clause 24 F

1. Original. Access available along unformed legal road, S. 58. & Marginal Strip.



2. River Course changes:-
Continuity of access is lost





Clause 24 B (3) (a)