

31. On the trial of a petition under this Act complaining of an undue return, and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was invalid in the same manner as if he had presented a petition complaining of such election.

Recrimination when
petition for undue
return.

1880, No. 37.

AN ACT to provide for the Destruction of Rabbits in New Zealand.

RABBIT NUISANCE.

[28th August, 1880.]

WHEREAS it is expedient to make provision for the destruction of rabbits in New Zealand :

Preamble.

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

1. The Short Title of this Act is "The Rabbit Nuisance Act, 1880."

Short Title.

2. "The Rabbit Nuisance Act, 1876," and "The Rabbit Nuisance Act Amendment Act, 1877," are hereby repealed : Provided that all districts constituted under the said Acts shall be districts under this Act, and the Trustees of such districts shall remain in office until the appointment of their successors under this Act, and that such repeal shall not affect any thing done, appointment or instrument made, regulations issued, right or privilege accrued, offence committed, forfeiture, liability, or penalty incurred, action, prosecution, or proceeding commenced, under the authority or against the provisions of such Acts before the passing of this Act.

Repeals.

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

Interpretation.

"Trustees" means the Trustees for the time being for the district for which they have been elected :

"Landowner" extends to and includes the owner, the occupier, or the resident agent of the owners of any property situate within the district of not less than forty acres in extent ; and also includes corporate bodies, or bodies of trustees having charge of any lands within the district :

"District" means a district duly proclaimed for the purposes of this Act :

"Rate" means a rate duly made under and for the purposes of this Act :

When a thing is required to be "publicly notified," or when "public notice" of anything is to be given, it is meant that a notice thereof shall be published in some newspaper circulating in the district in which such thing arises or to which it relates, or, where there is no such newspaper in general circulation, then that printed placards containing the notice shall be affixed to public places in the district :

"Gazetted" means published in the New Zealand Government *Gazette* :

"Local body" includes the Governor in cases where "The Counties Act, 1876," is not in operation, or where no Road Board exists.

RABBIT DISTRICTS.

4. The Governor may from time to time, by Order in Council, constitute and declare any part or parts of the colony, to be defined in such Order in Council, a district for the purposes of this Act by some specific name.

Governor in Council
may create districts.

Immediately on the constitution of a district "The Regulation of Local Elections Act, 1876," shall be in force in such district.

5. The Governor may from time to time, by Order in Council,—

Alter and redefine the boundaries of any district ;

Governor may alter
or abolish districts.

Assign to any district a new name in the place of the name theretofore assigned to any district ;

Abolish any district.

Trustees.

6. For every district constituted under this Act there shall be five Trustees, to be elected in the manner hereinafter directed.

Disqualification.

7. The following persons shall be incapable of being or of being elected to be Trustees, that is to say,—

- (1.) A bankrupt or insolvent who has not obtained his final order of discharge :
- (2.) Any person attainted of treason, or convicted of felony, perjury, or of any infamous crime :
- (3.) Any person of unsound mind :
- (4.) Any person pursuing the occupation of rabbit-catcher.

Provisions for bringing Act into force when district constituted.

8. When any district is constituted the following provisions for bringing this Act into operation therein shall apply :—

- (1.) The Governor shall appoint a Returning Officer to hold the first election of Trustees, and shall appoint the day or days for such elections.
- (2.) The Governor shall appoint the day for the first election of the Trustees, and shall have full power to do all things of what kind soever necessary to provide for bringing this Act into operation in such district, according to the true intent and purpose of this Act ; and at such first election every landowner in such district whose name appears on any ratepayers' list in such district as the owner of not less than forty acres shall be an elector, and entitled to one vote in the election of each Trustee to be elected.

Landowners entitled to one vote.

9. Every person within the district whose name appears on the landowners' list hereinafter mentioned shall be an elector, and entitled to vote in the election of Trustees.

Trustees elected annually.

10. The Trustees of each district shall hold office till the appointment of their successors ; but on the first Monday in the month of March in the year one thousand eight hundred and eighty-one, and in each succeeding year, the electors of a district shall elect five persons to be Trustees of the district for the ensuing year.

Governor may appoint members if no election.

11. If at such appointed day no election is held, or if at any election of Trustees held under "The Regulation of Local Elections Act, 1876," no persons are duly elected as such Trustees, or if a less number is elected than by law required to be elected, then the Governor may appoint such and so many as are qualified to be such Trustees as the occasion may require.

Vacancies.

12. If any Trustee shall die, or by writing addressed to the Chairman shall resign his office as such Trustee, or shall cease to reside permanently in the colony, or shall absent himself from four consecutive meetings of such Trustees without leave being granted, or shall otherwise become incapable to act as such Trustee, the Governor may appoint a person in lieu of the Trustee so dying, resigning, ceasing to reside, absenting himself, or otherwise becoming incapable to act as aforesaid ; and the person so appointed shall hold office as Trustee for the period or residue of the period his predecessor in such office would have held the same had he remained a member.

Rate.

13. It shall be lawful for the Trustees to levy in each year, for the purposes of this Act, a rate on all holdings of landowners not exceeding one halfpenny per acre.

- (1.) For the purpose of levying such rate and forming a landowners' list, the Trustees shall in every year cause to be made out a list, to be called

the "landowners' list," of every landowner in the district, with the quantity of land held, occupied, or owned by such landowner, and shall deposit such list, or a true copy thereof, in some convenient place in the district for inspection without fee. For the purpose of making out such list the County and Road Boards within the district shall, upon application being made by the Trustees, furnish a list of all ratepayers within the district, and of the extent of the land in their occupation.

- (2.) The Trustees shall, not less than ten days before making any rate, publicly notify their intention to make such rate, and the place where such landowners' list is deposited as aforesaid, and in such notice shall appoint a day and place on and at which they will sit to hear objections, and finally complete such list and levy the rate.

Provided that in the case of pastoral tenants under the Crown, whose leases expire within five years of the levying such rate, the amount to be paid in respect thereof shall be one-half of such rate. Proviso.

14. Any person who considers himself aggrieved by reason of the unfairness or incorrectness of any such list, or by reason of the insertion or incorrectness of any matter therein, or the omission of any matter therefrom, may object as herein provided. Objections.

15. The Trustees, or a majority of them, on the day fixed for hearing objections, shall hear and determine all objections, and may alter the list in respect of anything objected to, by correcting anything therein, or by inserting any matter therein, or erasing any matter therefrom, which it is proved to their satisfaction ought to be altered, inserted, or erased, as the case may be. The decision of the Trustees shall be final and without appeal. The list, when so corrected, shall be signed by the Trustees hearing such objections, or the majority of them, and when so signed shall, for the purpose of this Act, be conclusive evidence that the persons named therein are landowners, and of the quantity of land held, occupied, or owned by such landowners, and such list shall come into force immediately after the same is so signed, and shall be the landowners' list for the district until a new landowners' list comes into force in like manner. Trustees to hear and determine objections.

16. The Trustees are hereby empowered to do all such acts and things as may appear to them proper and necessary to be done to insure the destruction of rabbits in the district, and for that purpose may, out of moneys received by them by virtue of this Act, offer rewards or bonuses for the destruction of such rabbits. Powers of Trustees.

17. If the Trustees shall have reason to believe that there are rabbits in a wild state upon any lands within the district, and that the owner or occupier of such lands neglects or refuses to destroy the same, the said Trustees shall by notice in writing, delivered personally or affixed to some conspicuous place upon the property, require him or his authorized agent on his behalf to do so; and if after ten days such notice be neglected or not complied with, or no satisfactory evidence is adduced that efficient steps are being taken to carry out such notice, then it shall be lawful for any person or persons authorized in writing in that behalf by the Trustees to enter upon the said lands, and to use all such means and take all such measures as may be necessary for taking or destroying any rabbits which may be found upon such lands; and all such persons may take away and remove from the said lands the said rabbits or any part thereof: Provided that nothing herein contained shall exempt any person acting in pursuance of the powers hereby conferred from any liability for damage occasioned by his wilful act or default. Trustees, if owner neglect, may destroy rabbits on private lands after notice given.

Penalty for neglect.

18. If any occupier of land, after receiving from the Trustees notice to destroy the rabbits upon his property, fails or refuses to take efficient steps to destroy such rabbits, he shall be liable to a penalty of not less than one pound nor more than twenty pounds for each seven days that he shall so neglect or refuse to destroy such rabbits.

County Council may assume powers of Trustees in case of their neglect.

19. Should any County Council by resolution determine that the Trustees of any rabbit district within the limits of such county are not taking the necessary steps to secure the destruction of rabbits within such district, such County Council shall have all the rights and powers conferred upon the Trustees of rabbit districts; and, on such resolution being notified to the Trustees, from the date of their receiving such resolution they shall absolutely cease to exercise any rights or powers under this Act.

Inspectors of Rabbits.

20. All Inspectors of Sheep shall be Inspectors of Rabbits under this Act, and, as such, shall have power to enter upon all properties with a view to ascertaining whether or not rabbits exist thereon. It shall be their duty—

Their duties.

- (1.) From time to time to report to the County Council the properties on which rabbits exist, and on which no sufficient means are being taken for their extermination; and
- (2.) In cases where the County Council do not take the action herein provided within fourteen days of the reception of their report, themselves to enforce the penalties of this Act.

Persons authorized may enter upon lands to search for rabbits.

21. It shall be lawful for any person authorized in writing in that behalf by the Trustees, after having given notice, to enter upon any lands within such district at any reasonable hour in the daytime, whether enclosed or not, for the purpose of ascertaining if any rabbits are thereupon, and no such person shall be deemed a trespasser by reason of such entry, or be liable for any damage thereby occasioned unless the same was occasioned by such person wilfully and without necessity: Provided that any person so authorized shall, upon demand from the owner or his agent, exhibit such written authority if required to do so; and if, being required, he shall fail to exhibit such authority, then he shall be liable to be deemed and to be dealt with as a trespasser.

Appointment of Chairman, Treasurer, and collector.

22. The Trustees shall from time to time appoint any of the Trustees who may be willing to act in such capacity as Chairman, who shall have a casting as well as a deliberative vote, who shall hold office until the appointment of his successor, and some Trustee as Treasurer, and any person, whether a Trustee or not, to be a collector of rates. The Chairman or any two Trustees may, by giving seven days' public notice, or by notice in writing delivered to each of the Trustees, convene a meeting of Trustees. The Trustees may appoint a time and place for the payment of rates levied under this Act, and all rates not so paid may without further notice be recovered by the Trustees in any Court of competent jurisdiction.

Accounts.

23. The Trustees shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid under authority of this Act, and of the several purposes for which such sums of money shall have been received and paid, which books shall at all reasonable times be open to the inspection of any Trustee or landowner without fee or reward; and the persons aforesaid, or any of them, may take copies of or extracts from the said books gratis; and any person having the custody of the said books who does not, on the reasonable demand of any person as aforesaid, permit him to inspect the said books or to take such copies or extracts therefrom as aforesaid, shall for every such offence incur a penalty not exceeding five pounds.

- 24.** All moneys received by the Treasurer of the Trustees shall be paid by him into some one of the public banks of the colony to the account of the Trustees of the district, and no part of such moneys shall be drawn out of such bank except by cheque, signed by the Treasurer and countersigned by one of the Trustees. Moneys received to be paid into bank.
- 25.** The accounts of the Trustees for the past year shall be audited in the month of January in each year by an Auditor to be appointed by the Governor. Audit of accounts.
- 26.** The Trustees of every district shall, before the end of the second week in January in each year, cause the accounts of the Trustees for the past year, up to and including the last day of December, to be balanced, and also a full and true statement and account to be prepared of the amount of all rates made and levied and of all moneys received and expended during the past year, and also of all debts then owing by and to the Trustees; and such statement and account, signed by the Chairman and one Trustee at least, shall be submitted by such Chairman to the Auditor. Statement of accounts to be annually prepared.
- 27.** The Treasurer of every district shall forthwith after such audit make out and cause to be printed and published, in any newspaper circulating in the district, a full abstract of the accounts for the year as audited. Publication of accounts.
- 28.** All moneys whatsoever levied, received, or recovered under the authority of this Act shall be at the sole and absolute disposal of the Trustees, to be by them applied in such manner as they see fit for the purpose of destroying rabbits in such district, and generally in carrying out the purpose of this Act in the district, and to no other purpose. Appropriation.
- 29.** If any person wilfully obstructs, hinders, or interrupts, or causes or procures to be obstructed, hindered, or interrupted, the Trustees or any person duly employed or authorized by the Trustees, or in the exercise of any power or authority vested in the Trustees or any of the persons aforesaid by this Act, or threatens or assaults or uses abusive language to any of the persons aforesaid whilst in the performance or execution of his duty under this Act, every such person shall for every such offence, if not otherwise specially provided for, incur a penalty not exceeding twenty pounds: Provided that no proceeding for the recovery of such penalty, nor the payment thereof, shall be a bar to any action at law by any of the persons aforesaid for or in respect of any such assault as aforesaid, but every such action may be commenced and proceeded with as if this Act had not been passed, any law or usage to the contrary notwithstanding. Penalty for obstructing Trustees.
- 30.** All dogs kept by the Trustees, or duly certified by them as kept, solely for the purpose of destroying rabbits, shall be exempt from fee or charge on registration under any Act or Ordinance in force within the district. Rabbit-catchers' dogs exempt from taxation.
- 31.** Whenever under the provisions of this Act the Trustees, by themselves or their duly-authorized agents, shall have entered upon lands for the destruction of rabbits, which destruction has been neglected by the persons in possession of the same, the landowners having so neglected shall be liable to the Trustees for the net cost incurred from time to time in the process; the amount so due may be recovered in any Court of competent jurisdiction in the manner provided by "The Rating Act, 1876," for which purpose Boards of Trustees shall be local bodies. Negligent landowners liable for costs.
- 32.** Notice of every election or appointment of a Trustee shall be gazetted, and the *Gazette* containing such notice shall be conclusive evidence that the person, notice of whose election or appointment is gazetted, has been duly elected or appointed a Trustee. Evidence of appointment of Trustee.
- 33.** All Acts authorized by this Act to be done and performed by the whole of the Trustees of a district may be done and performed by any three of them present at a duly-convened meeting. Quorum to be three.

GENERAL PROVISIONS.

Rabbits outside of proclaimed rabbit district.

34. In any part of the colony not included within any district proclaimed under this Act it shall be lawful for any Resident Magistrate, upon the application of any Board of Trustees or other local body, and after the hearing of the case, to authorize any person, at any hour of the daytime, to enter upon any land, whether enclosed or not, after having given twenty-four hours' notice to the owner or occupier thereof, for the purpose of ascertaining if there are rabbits running at large thereupon, and to use all such means and to take all such measures as may be necessary for destroying any such rabbits as may be found there; and any such person may take away and remove from the said lands the said rabbits or any part thereof; and no such person shall be deemed a trespasser by reason of such entry, or be liable for any damage thereby occasioned unless the same was occasioned by such person wilfully and without necessity: Provided that any person so authorized shall exhibit such written authority if required to do so; and if, being so required, he shall fail to exhibit such authority, then he shall be liable to be deemed and to be dealt with as a trespasser.

Penalty for liberating rabbits.

35. If any person shall knowingly and wilfully liberate in any part of the colony any rabbit, the person so offending shall be liable to be committed to gaol with or without hard labour for any term not exceeding six months, or to forfeit and pay a penalty not exceeding fifty pounds.

Offences shall be dealt with summarily.

36. All offences against this Act, and all penalties and sums of money imposed or made payable by this Act, shall, where no other mode of proceeding is by law provided, be heard and determined and recovered in a summary way by and before any two or more Justices of the Peace, or in any Resident Magistrate's Court.

Governor may remedy defects in Act by regulations published in *Gazette*.

37. In all cases in which no provision or no sufficient provision is, in the opinion of the Governor, made by this Act, it shall be lawful for the Governor from time to time, for the purpose of facilitating or more effectually carrying into execution any of the objects of this Act, to make and prescribe all such regulations and orders, either general or applicable to particular cases only, as he shall think fit, and such regulations and orders from time to time to revoke or alter as to the Governor shall appear requisite.

All such regulations and orders shall be published in the *Gazette*, and, being so published, shall have the force of law at the expiration of fourteen days after such publication.

1880, No. 38.

NATIVE LAND
COURT.

AN ACT to amend and consolidate the Law relating to the Native Land Court. [30th August, 1880.]

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

PRELIMINARY.

Short Title.

1. The Short Title of this Act is "The Native Land Court Act, 1880."

Commencement of Act.

2. This Act shall come into operation on the first day of October, one thousand eight hundred and eighty.

Interpretation.

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

"Native" means an aboriginal native of New Zealand, and includes all half-castes and their descendants by Natives;