

T A S M A N I A



1877.

ANNO QUADRAGESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 27.



AN ACT to provide for the Destruction of Rabbits in *Tasmania*. [11 December, 1877.] A.D. 1877.

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 In this Act, if not inconsistent with the context, the following terms shall have the meanings hereafter respectively assigned to them; that is to say, Interpretation.

“Trustees” shall mean the Trustees for the time being of the District for which they have been elected: “Trustees.”

“Landholder” shall extend to and include the Owner of any property situate within the District of the Annual Value of not less than Five Pounds, or the Occupier of any property situate within the District of the Annual Value of not less than Ten Pounds: “Landholder.”

“Property” shall mean Lands and Buildings: “Property.”

“District” shall mean a District duly proclaimed under and for the purposes of this Act: “District.”

“Rate” shall mean a Rate duly made under and for the purposes of this Act. “Rate.”

2 The Governor in Council may, on the receipt of a petition signed by not less than Ten persons who are landholders within the meaning of this Act, praying that any portion of the Colony described in Districts may be proclaimed.

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such petition may be declared a district under this Act, cause the prayer and substance of such petition to be published in the *Gazette*; and unless a counter petition signed by landholders in the same district having a greater number of votes (calculated according to this Act) than the persons praying such district to be declared, is received by the Governor in Council within Thirty days from the date of such publication, the Governor in Council may, by Proclamation, constitute and declare the area described in such petition to be a district for the purposes of this Act, by some specific name.

Proclamation of district to direct when first meeting for election of trustees to be held.

3 When any portion of the Colony is proclaimed by the Governor in Council as and to be a district for the purposes of this Act, the Governor shall in such Proclamation direct that, at a time and place therein named, there shall be held within the said district a meeting of the landholders of such district for the purpose of electing from amongst the landholders of such district either Three or Five persons, as fixed by such Proclamation, as and to be Trustees of such district for the purposes of this Act; and such election shall be held accordingly.

Governor empowered to alter and re-define boundaries of districts, &c.

4 The Governor in Council may from time to time, by Proclamation—

- (1.) Alter and re-define the boundaries of any district:
- (2.) Assign to any district a new name in the place of the name theretofore assigned to such district:
- (3.) Abolish any district.

District as re-defined to be substituted for former district.

5 When the boundaries of any district are altered the district as altered shall be deemed to be substituted for the district so altered, and the trustees of the district before it was altered shall be the trustees of the district as altered.

Assigning new name not to affect district.

6 The assigning of a new name to any district shall not affect the powers of the trustees, or any other matter relating to such district.

Towns excepted from operation of Act.

7 The area comprised in any proclaimed town shall be excepted from the operation of this Act.

Trustees' powers.

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

If rabbits not destroyed after notice, parties may enter for the purpose of destroying them.

9 If the trustees shall have reason to believe that there are rabbits upon the lands of any landholder, and that such landholder neglects or refuses to destroy the same, they shall by notice in writing require him or his authorised agent on his behalf to do so; and if after Ten days such landholder or his agent neglects or fails to comply with such notice, then it shall be lawful for any person authorised in writing in that behalf by the trustees to enter upon any lands in respect whereof any such notice shall have been given as aforesaid, 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, if thought expedient, from the said lands the said rabbits or any part thereof.

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10. It shall be lawful for any person authorised in writing in that behalf by the trustees, without notice, to enter upon any lands at any reasonable hour in the day-time, 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 authorised 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 dealt with as a trespasser.

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Persons authorised may enter upon lands to search for rabbits.

11. The provisions of "The Cross and Bye Roads Act, 1870," relating to—

*Meetings of Landholders,
Election and Retirement of Trustees,
Meetings of Trustees,
Road Rate,
Suits by and against Trustees,*

Sects. 10 to 34, and 36 and 80 to 98, of 33 Vict. No. 8, to be applicable.

shall, except Sections Thirty-five and Seventy-nine of the said Act, be applicable to—

The Meetings of Landholders,
The Election and Retirement of Trustees,
The Meetings of Trustees,
The Rabbit Rate, and
Suits by and against the Trustees,

under and for the purposes of this Act, and shall be incorporated herewith.

12. It shall be lawful for the trustees at yearly, half-yearly, or such other periods as to them may seem necessary to make and levy a rate, to be called the Rabbit Rate, upon the annual value of the property of the landholders within the district for the purpose of raising the necessary funds for carrying out in the district the several objects of this Act; and every such rate, when received, shall form part of the moneys at the disposal of the trustees for the purposes of this Act; provided that such rate so to be made and levied shall not in any case exceed, in any one year, the sum of One Shilling in the Pound upon the annual value of the property within the district.

Trustees may make and levy rate.

13. No postage shall be charged upon any

Demands and receipts for Rabbit Rate by any collector: provided that there is endorsed thereon, or upon the cover of the same, the words "Rabbit Rate," together with the signature of the collector:

Demands, remittances, and receipts for Rabbit Rate and accounts exempt from postage.

Letters containing the amount of any Rabbit Rate: provided that there is endorsed thereon, or upon the cover of the same, the words "Rabbit Rate," together with the signature of the sender:

Letters or Packets addressed to the Colonial Auditor upon matters connected with this Act, if endorsed with the words "Rabbit Trust Accounts" and the signature of the sender:

anything contained in any Act to the contrary notwithstanding.

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Appointment of treasurer and collector.

Sects. 126 to 136 of 33 Vict. No. 8, to be applicable.

Trustees to keep accounts of receipts and disbursements.

Moneys received to be paid into bank.

Statement of accounts to be annually prepared.

Accounts to be subject to *The Audit Act*.

Accounts to be forwarded to Colonial Auditor.

Officers to be amenable to provisions of *The Audit Act*.

14 The trustees shall from time to time appoint any of the trustees who may be willing to act in such capacity to be treasurer, and any person, whether a trustee or not, to be a collector of rates; and all the provisions of "The Cross and Bye Roads Act, 1870," relating to *Officers and their Accountability* shall be applicable to such treasurer and collector, and shall be incorporated with this Act.

15 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 the authority of this Act, and of the several purposes for which such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any trustee or landholder without fee or reward; and the persons aforesaid, or any of them, may take copies of or extracts from the said books without paying anything for the same; 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 as aforesaid, shall, for every such offence, incur a penalty not exceeding Five Pounds.

16 All moneys received by the treasurer of the trustees shall be paid by him monthly into some one of the public banks of this 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.

17 The trustees of every District shall, before the end of the second week in the month of *January* in each year, cause the accounts of the trustees up to and including the last day of *December* next preceding to be balanced, and also cause a full and true statement and account to be drawn out of the amount of all rates made and levied, and of all moneys received and expended during the preceding year, and also of all debts then owing by and to the trustees, and such statement and account shall be signed by the chairman and not less than Two trustees.

18 The accounts of every District, as the same are mentioned and specified in the Fifteenth and the Seventeenth Sections of this Act, shall be subject and liable to all the provisions of *The Audit Act* and "The Audit Act, No. 2," in the same manner in all respects as if such accounts had been specifically mentioned therein.

19 The trustees of every district shall by their treasurer during the month of *March* in every year forward to the Colonial Auditor the statement and account mentioned in the Seventeenth Section of this Act, accompanied with proper vouchers in support of the same, and all such books, papers, and writings in the custody or power of the trustees relating thereto as the said Auditor requires to be furnished to him; and the said Auditor shall make and deliver to the said treasurer a special report upon such accounts, or if the said accounts are found correct the Colonial Auditor shall simply confirm and sign the same in token of his allowance thereof.

20 Every officer appointed or employed by the trustees of every District, in the receipt or disbursement of moneys or other property, shall be amenable to all the provisions of *The Audit Act* and "The Audit Act, No. 2," in the same manner in all respects as if such officer had been an officer in the public service.

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21 The treasurer of every district shall forthwith after such audit make out and cause to be printed a full abstract of the accounts for the year as audited; and a copy of the said abstract shall be published in the *Gazette* within One month after the same have been audited.

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Publication of accounts.

22 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 and effectuating the purposes of this Act in the district, and to no other purpose.

Appropriation.

23 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 authorised 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 improper or 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 any such offence, if not otherwise specially provided for, incur a penalty not exceeding Twenty Pounds: Provided, that no proceeding for the recovery of any 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.

Obstructing trustees.

24 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, determined, and recovered in a summary way by and before One or more Justice or Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*.

Offences to be dealt with summarily.

19 Vict. No. 8.

25 All penalties received by virtue of this Act shall, if not otherwise in any case specifically directed, be paid to the treasurer of the trustees of the district within which the offence in respect of which the penalty is imposed was committed, and shall form part of the moneys at the disposal of the trustees for the purposes of this Act.

Appropriation of penalties.

26 Any person who thinks himself aggrieved by any penalty imposed under the authority of this Act which is recoverable in a summary manner, may, unless otherwise expressly provided, appeal against the same in the mode prescribed by *The Appeals Regulation Act*.

Appeal from penalties.

19 Vict. No. 10.

27 No action shall lie against any person for anything done in pursuance of this Act unless notice in writing of such action, and of the cause thereof, is given to the defendant One month at least before the commencement of the action, and such action is commenced within Three months after the cause of action has accrued; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence; and no plaintiff shall recover in any such action if tender of sufficient amends has been made before such action brought, or if a sufficient sum of money has been paid into Court by or on behalf of the defendant after such action brought, together with the costs incurred up to that time; and if a verdict passes for the

Persons acting under Act entitled to notice of action. &c.

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détendant, or if the plaintiff becomes nonsuit or discontinues such action, or if upon demurrer or otherwise judgment is given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for recovering the same as any defendant has by Law in other cases; and though a verdict is given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the case is tried certifies his approbation of the action, and the verdict obtained thereupon.

Repeal of existing Acts.

28 The Acts of the Parliament of *Tasmania* set forth in the Schedule shall be hereby repealed :

Provided that such repeal shall not affect—

- (1.) Anything duly done before this Act commences and takes effect :
- (2.) Any liability accruing before this Act commences and takes effect :
- (3.) Any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act commences and takes effect :
- (4.) The institution of any legal proceeding, or any other remedy for enforcing or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

Existing districts continued.

29 All districts existing at the time of the commencement of this Act, by virtue of any Act hereby repealed, shall continue to be districts, and shall be deemed to be districts within the meaning and for the purposes of this Act, and shall be subject to its provisions.

Existing trustees and officers continued.

30 All trustees elected or appointed, and all collectors and other officers and persons appointed under any Act hereby repealed, and in office at the time of the commencement of this Act, shall continue in office notwithstanding such repeal, and shall be deemed to have been elected or appointed under this Act, and shall be subject to its provisions, and the rotation in which any such trustee shall retire shall be the same as if this Act had not passed.

Short title.

31 This Act may be cited as “The Rabbits Destruction Act, 1877.”

SCHEDULE.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>
35 Vict. No. 13.	“The Rabbits Destruction Act, 1871.”
38 Vict. No. 21.	An Act to amend “The Rabbits Destruction Act, 1871,” and to continue the same for a further Period.
39 Vict. No. 18.	“The Rabbits Destruction Amendment Act, 1875.”