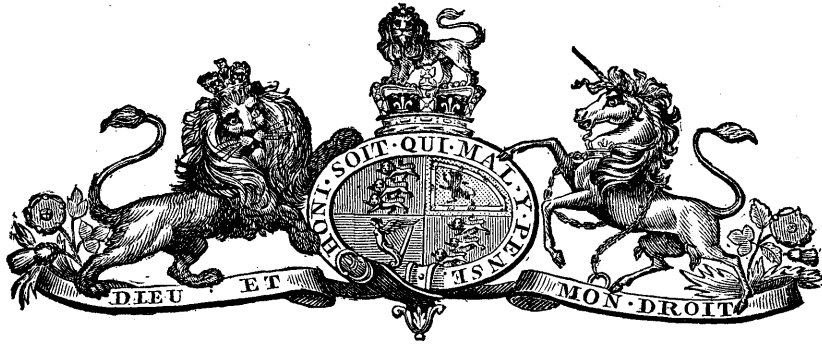


NEW ZEALAND.



TRICESIMO SECUNDO ET TRICESIMO TERTIO

VICTORIÆ REGINÆ.

No. XXII.

*Repealed by Otago
Waste Lands Act 1872*

ANALYSIS.

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AN ACT to regulate the Declaration of Hundreds in the Province of Otago. Title.
[28th August 1869.]

WHEREAS by "The Otago Waste Lands Act 1866" it was provided that nothing in the said Act contained should be deemed to alter or in any way affect the power of the Governor from time to time to proclaim new Hundreds And whereas by "The Gold Fields Act 1866" it was declared that except as therein provided any district proclaimed as a gold field should not be subject to the provisions of the Waste Lands Act And whereas upon the issue of pastoral leases pursuant to the provisions of the said Acts certain instruments styled "Deeds of Covenant" were entered into between the Superintendent of Otago and certain pastoral tenants of the Crown which instruments contained conditions on which such leases were issued And whereas the Governor was pleased recently to appoint Commissioners to inquire into the mode of administering the said Waste Lands Act in Otago and the report of such Commissioners has been duly made And whereas by reason of the various public and private rights and interests concerned it is desirable that the constitution of new Hundreds whether within or without any district Preamble.

Otago Hundreds Regulation.

proclaimed as a gold field in the Province of Otago should be regulated by law

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

Short Title.

1. The Short Title of this Act shall be "The Otago Hundreds Regulation Act 1869."

Hundreds may be proclaimed.

2. Subject to the provisions hereinafter contained it shall be lawful for the Governor from time to time by Proclamation published in the *New Zealand Gazette* to constitute into a Hundred any portion of the Waste Lands of the Crown within the Province of Otago not forming part of any Hundred for the time being existing notwithstanding that such lands or any part thereof shall be comprised within any pastoral lease or license heretofore or hereafter to be granted by the Crown under any law regulating the occupation or disposal of Waste Lands of the Crown and whether or not the same shall have been included within the boundaries of any proclaimed gold field.

No Hundred to be proclaimed unless at least half agricultural.

3. No Hundred shall be proclaimed in the Province of Otago after the passing of this Act unless one-half at least of the area thereof shall be determined under the provisions of this Act to be land available for agricultural purposes.

No Hundred to exceed 15,000 acres.

4. No Hundred shall exceed fifteen thousand acres in extent.

On Superintendent signifying that district should be proclaimed a Hundred officers to be appointed to inquire into circumstances.

5. Whenever the Superintendent of the Province of Otago shall signify in writing to the Governor that it is desirable to proclaim any district in the said Province to be a Hundred the Governor shall by warrant under his hand appoint one or more officers to make inquiries as to the character of the land included in such district the extent of land in the neighbourhood already open for selection and settlement and generally as to any circumstances which may render the proclamation of a Hundred desirable or not desirable.

Officers may examine witnesses on oath.

6. The officer or officers so appointed shall have power to summon and examine all persons upon oath and to administer an oath and every person swearing falsely before any such officer or officers shall be guilty of perjury.

Officers to report facts and their opinion.

7. The said officer or officers shall make a report stating the facts which upon such investigation he or they shall have found and the opinion which he or they shall have formed as to the desirability of proclaiming such district a Hundred and such report shall be transmitted to the Colonial Secretary.

Upon favourable report Governor may proclaim a Hundred.

8. If upon such report being made it shall appear that it is expedient to proclaim the said district a Hundred the Governor may at any time within six months thereafter at the request of the Superintendent by Proclamation published in the *New Zealand Gazette* and in the *Provincial Gazette* of Otago proclaim the said district a Hundred.

Holders of leases determined by Proclamation entitled to compensation.

9. Every person holding a lease of any pastoral lands comprised within any district proposed to be proclaimed a Hundred as aforesaid shall be entitled to compensation for the determination of his lease and for all improvements made by him on the land included in the Hundred and held under his lease and not comprised within the eighty acres which under the eighty-second section of "The Otago Waste Lands Act 1866" he is entitled to purchase before the same is exposed for sale Provided always that the amount of such compensation shall in no case exceed two shillings and sixpence per acre in respect of the determination of such lease over such portion of the run so to be proclaimed a Hundred as aforesaid and that the holder of such lease shall not be entitled to any compensation in respect of improvements other than fencing and in respect of land ploughed up or drained or laid down in English grass.

Otago Hundreds Regulation.

10. If the holder of such lease can agree with the Waste Lands Board of the Province of Otago as to the amount of such compensation such amount shall be paid to him by the Governor out of the Land Revenue of the Province of Otago in one sum or by three equal annual sums the last whereof shall be paid not later than the end of three years from the date of ascertaining the amount of such compensation.

Compensation may be agreed upon and paid by the Governor out of the Land Revenue of Province in one sum by three instalments.

11. In case the amount of such compensation shall not be fixed by agreement in manner aforesaid within one month after the date of the report recommending the proclamation of such Hundred then such amount in dispute shall be settled within three months from the expiration of the first month by three Arbiters to be appointed by the Governor whose decision or the decision of the majority of them shall be final and such compensation when settled as last aforesaid shall be paid in like manner as compensation ascertained under the last preceding section and the said Arbiters may summon and examine upon oath any witness and administer an oath for that purpose.

Compensation how to be determined in case of difference.

12. In the determination of the matters referred to them the Arbiters shall be guided by equity and good conscience after full deliberation upon all the circumstances which shall be brought under their consideration and in determining the compensation to be awarded the Arbiters shall *inter alia* consider not only the value of the portion of any run with respect to which the lease shall have been determined and of the improvements aforesaid but also the extent to which the value of the remaining part of such run shall be deteriorated or affected or rendered valueless by such determination of the lease and shall make their award accordingly They may also if they think fit award to the holder of the lease any sum on account of costs charges and expenses which he has incurred in and about the arbitration but in all cases such sum (if any) shall be distinguished in the award from the sum (if any) awarded as compensation.

Arbitration how to be conducted.

13. Whenever any portion of any such run shall be proclaimed within a Hundred the leaseholder shall be entitled within twenty-one days after the first publication of the Proclamation of such Hundred by notice under his hand to the Superintendent to elect whether he will surrender or not his lease in respect to the remaining portion of the run and in such case such lease shall thereupon determine over the whole run and such leaseholder shall be entitled to such compensation as if the whole run had been proclaimed within a Hundred subject however to the provisions contained in the fourteenth section of this Act Provided always that the amount of such last-mentioned compensation shall in no case exceed one shilling and sixpence per acre in respect of the determination of such lease.

Leaseholder may elect to surrender his lease.

14. When such award has been made if the Superintendent of the Province of Otago shall within three months elect to abandon the proclamation of such Hundred it shall be lawful for him to signify such election to the Governor in writing and thereupon no part of the said district shall be proclaimed a Hundred except after fresh proceedings for that purpose taken under this Act and the right of every holder of a lease within the district to compensation in respect to the proposed proclamation and under any agreement or award made in contemplation of such proclamation shall absolutely cease Provided always that if in any award made in contemplation of such proclamation it shall appear that the holder of a lease as aforesaid is entitled to payment of any sum of money on account of costs charges or expenses incurred by him in and about the arbitration aforesaid his right to payment of such sum shall not cease by reason of the abandonment of the proclamation but such sum shall be paid to him in the same manner as if the proclamation had been made.

When award made proclamation may be abandoned.

On abandonment right to compensation to cease.

Proviso for leaseholder's expenses of arbitration.

Otago Hundreds Regulation.

Deeds of covenant to be carried into effect.

15. Whenever it shall be shown to the satisfaction of the said Waste Lands Board that any agreement has heretofore been made between the said Superintendent and any pastoral tenant of the Crown whereby the parties thereto entered into mutual covenants in consideration whereof a pastoral lease was issued under the said Waste Lands Act to and accepted by such tenant the said Board shall on the application of either the Superintendent or such tenant as the case may be give effect to such agreement and covenants in like manner as would have been done if the same had been made under any express authority of law. Provided that nothing herein contained shall be construed to affect or interfere with any power of initiating proceedings under any such covenant given to the Superintendent by the same.

Separate portions of runs may be proclaimed within a Hundred.

16. Notwithstanding that the Governor may heretofore or hereafter under the powers for the time being conferred upon him have proclaimed any portion of a run within a Hundred nothing in this Act or in any other Act to the contrary shall be deemed to prevent the Governor from time to time by any subsequent Proclamation from proclaiming any other portion of such run within a Hundred subject to the provisions of this Act.

Assessments on stock within Hundreds to be Provincial Revenue.

17. All proceeds of assessments by way of rental on stock depastured on land within Hundreds hereafter proclaimed shall form part of the Land Revenue of the Province of Otago.

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