

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

19th July, 1946

Hon. Mr. Roberts

NASSELLA TUSSOCK

ANALYSIS

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A BILL INTITULED

Title.

AN ACT to make Provision for the Control and Eradication of the Plant known as Nassella Tussock, and for the Constitution of the North Canterbury and Marlborough Nassella Tussock Boards.

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

1. This Act may be cited as the *Nassella Tussock* Short Title.
 5 Act, 1946.
2. In this Act, unless the context otherwise Interpretation.
 requires,—
- “ Board ” means the North Canterbury *Nassella*
 Tussock Board or the Marlborough *Nassella*
 10 Tussock Board constituted under this Act:
- “ Constituent Councils ”, in relation to the North
 Canterbury *Nassella* Tussock Board, means
 the Councils of the Amuri, Cheviot, Waipara,
 15 and Kowai Counties; and, in relation to the
 Marlborough *Nassella* Tussock Board, means
 the Councils of the Marlborough, Awatere,
 and Kaikoura Counties:
- “ Council ” means the Council of a county:
- “ Crown land ” means any land other than private
 20 land:
- “ District ” means the district of a Board:
- “ Inspector ” means an Inspector appointed
 under this Act:
- “ Minister ” means the Minister of Agriculture:
- 25 “ *Nassella tussock* ” means the plant *Nassella*
trichotoma (Nees.) Hack:
- “ Owner ”, in relation to any private land, means
 the person who for the time being is entitled
 to the rack-rent thereof or would be so
 30 entitled if the same were let to a tenant at a
 rack-rent:
- “ Private land ” means any land alienated from
 the Crown in fee-simple or for any less estate
 or interest; and includes any other land,
 35 whether alienated from the Crown or not, of
 which any person is in actual occupation or
 in receipt of the rents or profits.
3. (1) If under this Act the amount of any advances Authorized rate
 made or moneys expended is payable to or recoverable of interest.
 40 by any Council or, as the case may be, any Board,

together with interest, then, unless a contrary intention appears, the interest shall be calculated—

- (a) In the case of the Council, at a rate equal to one per centum more than the Council is paying on the moneys so advanced or expended if the Council has previously borrowed those moneys, or equal to one per centum more than the Council would have been paying if it had at the time of the advance or expenditure borrowed the moneys under this Act at a rate not exceeding the maximum rate determined from time to time by the Local Government Loans Board in respect of loans sanctioned under the Local Government Loans Board Act, 1926:
- (b) In the case of the Board, at a rate equal to one per centum more than the Board would have been paying if it were a County Council and had at the time of the advance or expenditure borrowed the moneys under this Act at a rate not exceeding the maximum rate determined from time to time by the Local Government Loans Board in respect of loans sanctioned under the Local Government Loans Board Act, 1926.
- (2) The rate calculated as aforesaid is hereinafter referred to as the authorized rate.

See Reprint
of Statutes,
Vol. V, p. 415

PART I

POWERS OF COUNTY COUNCILS IN RELATION TO NASSELLA TUSSOCK

4. This Part of this Act shall be read together with and deemed part of the Counties Act, 1920.

This Part to
be deemed
part of
Counties Act,
1920.

See Reprint
of Statutes,
Vol. V, p. 180

General powers
in relation to
nassella tussock.

5. (1) Any County Council may promote and carry out measures for the detection, control, and eradication of nassella tussock within the county, and for that purpose the Council may—

- (a) Appoint such Inspectors and other officers and servants as are in its opinion necessary for the proper exercise of its powers under this Part of this Act:
- (b) Cause inspections of the whole or any part of the lands in the county (including Crown lands) to be made from time to time for the purpose of ascertaining whether there is any nassella tussock within the county:
- 10 (c) Subject to the provisions of the *next succeeding* section, do on or in respect of any land in the county (whether Crown land or not) all such acts and things as appear to the Council to be necessary or expedient for eradicating
15 nassella tussock therefrom, or for preventing the spread of nassella tussock from that land to any other land or to that land from any other land:
- 20 (d) Generally take all such measures and perform and do all such acts and things as appear to the Council to be necessary or expedient to control and eradicate nassella tussock within the county.

25 (2) Except as expressly provided in this Act, nothing hereinafter contained shall be held to derogate from or prejudice the generality of the provisions of this section and the powers, rights, and privileges conferred by this section.

30 (3) Where in any financial year any Council exercises any of the powers conferred upon it by this section it shall, not later than the last day of that financial year, cause to be sent to the Soil Conservation and Rivers Control Council established under the Soil
35 Conservation and Rivers Control Act, 1941, a written notice containing a general summary of its activities in that year in relation to the control and eradication of nassella tussock in the county.

1941, No. 12

40 **6.** (1) The Council shall not exercise in respect of any Crown land the powers conferred on it by paragraph (c) of subsection one of the *last preceding* section without first obtaining the consent of the Minister who is for the time being charged with the administration of the land or with the administration of the Act to which the land is subject, or, if there is
45 no such Minister, the consent of the Minister of Lands.

Exercise of powers in respect of Crown land.

Where under this section application is made to a Minister for his consent the Minister may in his discretion refuse his consent or grant his consent either unconditionally or upon or subject to such terms and conditions as he thinks fit. 5

(2) Where any work is carried out by the Council on any Crown land with such consent as aforesaid, all costs, charges, and expenses incurred by the Council in respect of the work shall be defrayed out of moneys from time to time appropriated for the purpose by Parliament. 10

County Councils may act together in measures under this Part.

7. (1) The Councils of two or more counties may act together in the exercise of their powers under this Part of this Act, and may, upon such terms and conditions as they think fit, jointly appoint Inspectors and others for that purpose. 15

(2) Any Council may from time to time arrange with any other Council for that other Council and its Inspectors and officers on behalf of the first-mentioned Council to exercise and perform the powers of the first-mentioned Council and to enforce the observance of the provisions of this Part of this Act and of any regulations or by-laws in force under this Act in the county of that Council. 20

(3) Any Council may for the purposes of this section enter into such agreements as it thinks fit, and the agreements may contain all such provisions as to the Council seem necessary or expedient. 25

Notice to owner to eradicate or control *nassella tussock*.

8. (1) Any Council may from time to time cause to be served on the owner of any private land in the county a notice in writing in the form set out in the Schedule to this Act, or to that effect, requiring the owner, under the supervision of the Council, to do all or any of the following acts and things, namely:— 30

(a) To grub any *nassella tussock* on the land: 35

(b) To plough under any *nassella tussock* on the land:

(c) To plant on the land or on any part thereof such trees as the Council considers necessary for the purpose of covering any area or areas infested with *nassella tussock*, or for the purpose of preventing the carriage by wind of *nassella tussock* seed from any area so infested to any area not so infested: 40

(d) To erect, in such positions as the Council may direct, on any land on which trees are planted as aforesaid, such fences as the Council thinks fit, or to repair any fence so erected:

5 (e) To do in respect of the land any other act or thing appearing to the Council to be necessary or expedient for the control or eradication of nassella tussock thereon or for preventing the
10 spread of nassella tussock to or from any other land.

(2) A copy of every notice under this section shall be served on all persons having any estate or interest in the land, so far as those persons are known to the Council.

15 (3) The description of any land in any notice under this section need not define the land, but shall be sufficient if it makes such reference to the land, either by name, number of section or allotment, boundaries, or otherwise, as allows of no reasonable doubt as to what
20 land is referred to.

(4) The owner of any land who has been served with a notice under this section shall, before such date (being not less than twenty-two days after the date of service of the notice on the owner) as may be fixed by
25 the Council, and in such manner as may be directed by the Council, do all the acts and things required by the notice to be done and take all such other measures as may be required in writing by the Council for any of the aforesaid purposes.

30 9. (1) Within twenty-one days after any notice under the *last preceding* section is served on the owner of any land, the owner or any other person having an estate or interest in the land affected by the notice may give to the Council notice of appeal. Appeals from notices.

35 (2) Pending the determination of the appeal the notice shall be suspended.

(3) Every such appeal shall be heard and determined in a Magistrate's Court before a Magistrate alone, and the Court, for the purposes of hearing and
40 determining the appeal, shall have all the powers vested in it in its ordinary civil jurisdiction.

(4) The procedure for the institution, hearing, and determination of the appeal in the Magistrate's Court shall be in accordance with the rules for the time being

See Reprint
of Statutes,
Vol. II, p. 98

in force under the Magistrates' Courts Act, 1928, in respect of originating applications to a Magistrate's Court, and, subject to those rules or so far as they do not extend, shall be in accordance with the ordinary procedure of that Court. 5

(5) On any such appeal the Magistrate's Court may cancel the notice or may confirm it, either absolutely or partially or subject to such conditions and modifications as the Court deems just, and the decision of the Court shall be final. 10

Powers of
Council on
owner's
default.

10. If any owner on whom a notice is served under section *eight* of this Act fails or neglects to do any act or thing required of him under or by virtue of that section before such date as may be fixed by the Council or in such manner as may be directed by the Council, the Council may itself do or complete the doing of that act or thing. 15

Recovery of
expenditure on
private land
by Council.

11. Where pursuant to the *last preceding* section or to paragraph (c) of subsection *one* of section *five* of this Act any work is carried out by the Council on any private land the whole or any part of the moneys expended by the Council in respect of the work, and interest thereon at the authorized rate calculated up to the date of the payment thereof, may, in the discretion of the Council, be recovered as a debt due to the Council from the owner of the land. 20 25

Advances by
Council to
owners.

12. (1) The Council may make advances to any owner on whom a notice is served under section *eight* of this Act for the purpose of enabling him to comply in all respects with the requirements of the notice, or the Council may, by agreement with the owner, itself comply with those requirements, and all moneys expended by the Council pursuant to any such agreement shall be deemed to be an advance for the purposes of this section. 30 35

(2) The Council and the owner may agree that the amount of any advance under this section or of any moneys due under the *last preceding* section shall be payable to the Council in one amount at a fixed time with interest at the authorized rate, or by instalments extending over a number of years, with interest as aforesaid. The agreement may contain any incidental provisions and may provide for the earlier payment of instalments, or any of them, on terms to be mentioned in the agreement; 40 45

Provided that where the agreement makes no provision as aforesaid for early payment of instalments the Council shall accept the whole of the unpaid instalments at any time with interest up to and including
5 the date of payment.

(3) Any such agreement may, where the moneys are payable in one amount, contain provisions for securing the payment thereof; and, where the moneys are payable by instalments, each such instalment shall for
10 all purposes be deemed to be a rate, subject, nevertheless, to the following conditions:—

(a) The owner for the time being of the land shall in all cases be deemed to be the person primarily liable for payment:

(b) A separate book shall be kept by the Council in which particulars of the instalments (distinguishing principal from interest), and of the dates for payment thereof, and of the names of persons paying the same, and of the land
15 on which the moneys are a charge, shall be entered; and that book shall be *prima facie* evidence of the correctness of its contents.
20

13. (1) Any Council may from time to time, by special order and without taking the steps prescribed
25 by sections nine to thirteen of the Local Bodies' Loans Act, 1926, raise a special loan to enable it to make advances to owners under this Part of this Act.

Borrowing by Councils for purposes of advances to owners.

See Reprint of Statutes, Vol. V, p. 365

(2) Interest-moneys received by a Council in respect of any advances under section *twelve* of this Act shall
30 be applied in or towards payment of the interest or other annual charges in respect of any special loan raised by it for the purposes of this section.

14. (1) Any Council may, whenever it considers it expedient for the purposes of this Act so to do, on any
35 land vested in the Corporation of the county or acquired or leased by the Council for the purpose, or, subject to the consent of the owner, on any other land in the county, plant or sow and maintain trees, shrubs, plants, or grasses, and erect and maintain fences on
40 the boundaries or any other part of any land on which any such planting or sowing is carried out.

Afforestation and sale of timber, &c.

(2) Any Council may from time to time cut or sell any trees or timber on any land vested in the Corporation and do all such things as it deems necessary for

the purposes of or in connection with the maintenance, cutting, transportation, sale or other distribution of such trees or timber as aforesaid.

(3) Where pursuant to subsection *one* of this section the Council does any work on any land with the consent of the owner thereof, the Council may make such arrangements as it thinks fit with the owner or occupier of the land for any purpose in relation to the work, whether as to the payment by such owner or occupier of the whole or any part of the cost of the work or otherwise. Any moneys payable by the owner or occupier under any such arrangement as aforesaid may be treated as moneys advanced by the Council under section *twelve* of this Act, and in such case the provisions of that section shall apply accordingly.

Power to take or acquire land for purposes of Act.

See Reprint of Statutes, Vol. VII, p. 622

15. Any Council shall, in addition to any other powers given to it by this Act, have power to take under the Public Works Act, 1928, or purchase or otherwise acquire as for a public work duly authorized under that Act, any land within the county if in its opinion it is necessary or expedient so to do for the purpose of exercising any of its powers or functions under this Part of this Act.

Expenditure by Councils for purposes of this Part.

16. (1) Any Council may from time to time expend such moneys as it deems necessary for the purpose of exercising any of the powers conferred upon it by this Part of this Act.

(2) Any Council, whether or not there is any nassella tussock in its county, may from time to time contribute such moneys as it thinks fit towards the funds of any other Council, or of any Board constituted under Part II of this Act, for the purpose of assisting the last-mentioned Council or, as the case may be, the Board in the exercise of its powers under this Act.

Subsidy on expenditure by Councils for purposes of Act.

17. (1) There shall be payable to every Council which expends any moneys, not being moneys recoverable from an owner of land under section *eleven* of this Act, in doing any work for the purpose of controlling or eradicating nassella tussock in its county pursuant to this Part of this Act a subsidy computed at the rate of one pound for every pound so expended, or at such other rate as the Minister of Finance from time to time determines.

(2) The subsidy payable under this section shall be paid out of moneys appropriated by Parliament for the purpose, and shall be payable at such times and in such manner as the Minister of Finance may from time to time determine.

(3) Every claim made by a Council for any sum payable by way of subsidy under this section shall be supported by a statutory declaration made by the Chairman of the Council, verifying a statement of all material particulars.

18. (1) In addition to the powers to make by-laws conferred by the principal Act, or any other Act, any Council may from time to time, in order to promote the eradication of nassella tussock or the prevention of the spread thereof, make by-laws—

Power to make
by-laws.

(a) Prohibiting the lighting of fires except under such circumstances and subject to such limitations, conditions, and restrictions as may be prescribed by the by-laws or pursuant thereto:

(b) Regulating or prohibiting the destruction of, or interference with, trees, shrubs, plants, or grasses:

(c) Generally preventing trespasses, nuisances, and damage to plantations, fences, or other works established or maintained by the Council, and making all such provision as the Council deems necessary or expedient for the protection and proper management of its property and all machinery and works of every kind under its care, control, and management.

(2) A copy of every by-law made under this section shall, within *seven* days after the making thereof, be sent by the Council to the Minister, who may at any time thereafter, by notice published in the *Gazette*, disallow the by-law, either wholly or in part, if in his opinion it is unreasonable or undesirable.

(3) On any such disallowance as aforesaid the by-law shall, to the extent to which it is so disallowed, become wholly void as if it had been revoked.

(4) Any such disallowance as aforesaid shall take effect either on the day of the publication of the notice of disallowance in the *Gazette* or on such later date as may be specified in that behalf in the notice.

Incidental
powers of
Councils.

19. In addition to any powers conferred upon it by this Part of this Act, every Council shall have power from time to time—

- (a) To make contributions towards the expense of any investigations, experiments, or scientific research that may be carried out by or under the control of any Government Department in respect of methods of eradicating or preventing the spread of nassella tussock: 5
- (b) To purchase all such goods, substances, materials, implements, machinery, or equipment as in the opinion of the Council are necessary for the purpose of exercising its powers and functions under this Part of this Act: 10
- (c) To sell or otherwise dispose of goods or substances intended to be used for the eradication of nassella tussock or for the prevention of the spread of nassella tussock. 15

PART II

20

NASSELLA TUSSOCK BOARDS

Constitution of
North
Canterbury and
Marlborough
nassella
tussock
districts.

20. (1) There is hereby constituted for the purposes of this Act a district, to be known as the North Canterbury nassella tussock district, comprising the Amuri, Cheviot, Waipara, and Kowai Counties. 25

(2) There is hereby constituted for the purposes of this Act a district, to be known as the Marlborough nassella tussock district, comprising the Marlborough, Awatere, and Kaikoura Counties.

(3) Notwithstanding anything in this section, the Governor-General may from time to time, by Order in Council, declare any specified area or areas to be excluded from any district, and thereupon the area or areas so specified shall, as from the date of the publication of the Order in Council in the *Gazette*, or from such later date as may be specified in the Order in Council, cease to be part of the district. 30

Constitution
of North
Canterbury and
Marlborough
Nassella
Tussock
Boards.

21. (1) There shall be for the North Canterbury nassella tussock district a Board to be known as the North Canterbury Nassella Tussock Board. 40

(2) There shall be for the Marlborough nassella tussock district a Board to be known as the Marlborough Nassella Tussock Board.

(3) Each Board shall be a body corporate and shall have perpetual succession and a common seal, with 45

power to purchase, take on lease, hold, deal with, and dispose of real and personal property, to sue and be sued in any Court, and to do and suffer all that bodies corporate may lawfully do and suffer.

- 5 (4) Each Board shall be deemed to be a local authority for the purposes of the Local Bodies' Finance Act, 1921-22, the Public Works Act, 1928, and the Local Authorities (Members' Contracts) Act, 1934.

See Reprint
of Statutes,
Vol. V, p. 354;
Vol. VII, p. 622
1934, No. 17

Members of Boards

- 10 **22.** (1) The North Canterbury Nassella Tussock Board shall consist of not less than eleven nor more than fourteen members, to be appointed as provided in this section.

Members of
Boards.

- 15 (2) The Marlborough Nassella Tussock Board shall consist of not less than nine nor more than twelve members, to be appointed as provided in this section.

(3) Of the members of each Board,—

- (a) Two shall be appointed by each of the constituent Councils:
- 20 (b) One shall be an officer of the Department of Agriculture, to be appointed by the Minister:
- (c) One shall be an officer of the Department of Scientific and Industrial Research, to be appointed by the Minister:
- 25 (d) One shall be appointed by the Minister on the recommendation of the Soil Conservation and Rivers Control Council established under the Soil Conservation and Rivers Control Act, 1941:

1941, No. 12

- 30 (e) Not more than three (hereinafter referred to as the co-opted members) may be appointed by the Board under subsection *four* of this section.

- 35 (4) Subject to the provisions of paragraph (e) of the *last preceding* subsection, the Board may from time to time, if it thinks fit, appoint any person to be a co-opted member of the Board.

- 40 **23.** (1) The first members of each Board to be appointed by the constituent Councils shall be appointed by resolutions of the respective Councils within two months after the passing of this Act.

Appointment
of members by
constituent
Councils.

- (2) In every year in which a general election of Councillors is held under the Counties Act, 1920, each of the constituent Councils shall, in the month immediately following the month in which the election is held, by resolution appoint two persons to be members of the Board.

See Reprint
of Statutes,
Vol. V, p. 180

(3) If any appointment required by this section to be made is not made within the time prescribed by this section for the making thereof the Governor-General may make the required appointment.

Term of office
of members.

24. (1) Every member of the Board shall come into office on the day of his appointment. 5

(2) The members appointed by any of the constituent Councils shall, unless their offices sooner become vacant, hold office until the members appointed by that Council at the next appointment made under the *last preceding* section come into office. 10

(3) Every member appointed by the Minister shall hold office at the pleasure of the Minister.

(4) Every co-opted member shall be appointed and hold office for such term, not exceeding *three* years, as the Board thinks fit. 15

(5) Any member may from time to time be reappointed, or may be at any time removed from office by the Minister for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Chairman or the Secretary of the Board. 20

Vacancies.

25. (1) If any member of the Board (not being a co-opted member) dies, or is removed from office, or resigns, or is convicted of an offence under section *twenty-eight* of this Act, the vacancy so created shall, within two months after the occurrence thereof, be filled in the manner in which the appointment to the vacant office was originally made. 25

(2) If no appointment is made under this section within two months after the happening of the vacancy, the Governor-General may make the required appointment. 30

(3) Every person appointed under this section shall hold office only for the unexpired portion of the term of office of his predecessor. 35

Proceedings of Boards

Chairman and
Deputy
Chairman.

26. (1) The Board shall from time to time appoint from among its members a Chairman and a Deputy Chairman of the Board. During any vacancy in the office of Chairman or whenever the Chairman is unable to act, whether by reason of absence or otherwise, the Deputy Chairman may exercise and perform all the powers and duties of the Chairman. 40

(2) The Chairman shall preside at every meeting of the Board at which he is present. In the absence of the Chairman and the Deputy Chairman from any meeting of the Board the members present shall select
 5 one of their number to be the Chairman for the purposes of that meeting.

(3) At any meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

10 **27.** (1) The first meeting of the Board shall be held at such time and place as the Minister appoints.

Meetings of Board.

(2) Thereafter meetings shall be held at such times and places as the Board or the Chairman from time to time appoints.

15 (3) At every meeting of the North Canterbury Nassella Tussock Board *six* members shall form a quorum.

(4) At every meeting of the Marlborough Nassella Tussock Board *five* members shall form a quorum.

20 (5) Every question before the Board shall be determined by a majority of the votes of the members present at a meeting of the Board. All members of the Board (including co-opted members) shall have equal voting-powers.

25 **28.** (1) A member of the Board shall not vote or take part in the discussion of any matter before the Board in which he has, directly or indirectly, by himself or his partner, any pecuniary interest apart from any interest in common with the public or as a
 30 member of an incorporated company in which there are more than twenty members and of which he is neither a director nor the general manager.

Member not to vote on matter in which he has pecuniary interest.

(2) A member who knowingly offends against this section commits an offence against this Act, and upon
 35 conviction his seat on the Board shall become vacant.

29. No act or proceeding of the Board, or of any person acting as a member of the Board, shall be
 40 invalidated in consequence of there being a vacancy in the membership of the Board at the time of the act or proceeding, or of the subsequent discovery that there was some defect with regard to the appointment of any member of the Board or of any person so acting or
 45 that he was incapable of being a member.

Proceedings not invalid by reason of irregularities in appointment of members, &c.

Procedure of Board.

30. Subject to the provisions of this Act, the Board may regulate its own procedure.

Officers

Board may appoint officers.

31. (1) The Board may from time to time appoint a Secretary, a Treasurer, Inspectors, overseers, and such other officers and servants as it thinks fit; and may out of its funds pay such salaries and allowances to the said officers and servants respectively as it thinks reasonable. 5

(2) One person may be appointed to hold two or more offices under this section. 10

(3) Subject to the provisions of the *next succeeding* section, any officer or servant of the Board may be at any time removed from office by the Board.

Board may contract with officers and servants as to tenure of office.

32. (1) Notwithstanding anything to the contrary in this Act or in any rule of law, the Board may enter into an agreement in writing with any person whom it proposes to appoint, or who has been appointed, an officer or servant of the Board to the effect that that person shall not be removed from office save as provided in the agreement or except for conduct justifying summary dismissal— 15 20

(a) During such period (not exceeding three years from the date of his appointment or the date of the agreement, as the case may be) as is specified in the agreement; or 25

(b) Except after such notice, not exceeding three months, as may be specified in that behalf.

(2) Any agreement to which paragraph (a) of the *last preceding* subsection relates may from time to time be renewed for any period not exceeding three years at any one time from the date of the renewal. 30

Acting officers.

33. During the absence from duty of any officer of the Board by reason of illness, leave of absence, or other cause, the duties and powers of that officer may be performed and exercised by an acting officer appointed by resolution of the Board; and any such appointment may be either general or for some occasion only. 35

Certain officers to give security.

34. Before any officer entrusted by the Board with the custody or control of moneys by virtue of his office enters on the duties of his office, the Board shall take sufficient security from him for the faithful execution thereof. 40

Finance

35. (1) The Board shall, during the month of April in every financial year, cause an estimate to be prepared of the proposed expenditure of the Board for all purposes and of its receipts in that year, showing separately:—
- Annual estimate of Board's proposed expenditure.
- (a) The sum or sums that may be required for carrying out or maintaining any works proposed to be undertaken by the Board during the year and all other works vested in or controlled by the Board, and all other expenses that may be incurred by the Board pursuant to this Act:
- (b) Any sums already available for the aforesaid purposes:
- (c) The estimated receipts of the Board from all sources other than the contributions of the constituent Councils and subsidies payable to the Board as hereinafter provided:
- (d) The amount (hereinafter referred to as the net estimated expenditure) by which the estimated expenditure exceeds the aggregate of the sums available and estimated receipts as aforesaid.
- (2) Any deficiency or surplus in the revenues of the Board for the preceding financial year shall be included in the estimate under this section. Every such deficiency shall be deemed to form part of the expenditure of the Board, and every such surplus shall be deemed to form part of the receipts of the Board, in the year to which the estimate relates.
- (3) The first estimate made by the Board under this section shall be for the year beginning on the *first* day of *April* next after the constitution of the Board, but that estimate may include the amount of any expenses incurred and moneys received by the Board in the interval between the date of its constitution and the said *first* day of *April*.
- (4) The estimate prepared under this section in any year shall be confirmed by resolution of the Board at a meeting of the Board held not later than the last day of May in that year.
- (5) The Board shall, as soon as practicable after the confirmation of the estimate as aforesaid, cause a copy of the estimate to be sent to the Minister.

(6) The amount of the net estimated expenditure shall be provided partly by way of the contributions of the constituent Councils and partly by way of subsidy as hereinafter provided.

Subsidy payable to Board.

36. (1) There shall in respect of each financial year 5
be payable to the Board by way of subsidy a sum equivalent to such portion of the amount of the net estimated expenditure for that year as the Minister of Finance determines.

(2) The subsidy payable under this section shall be 10
paid out of moneys appropriated by Parliament for the purpose, and shall be payable at such times and in such manner as the Minister of Finance may from time to time determine.

(3) Every claim made by the Board for any sum 15
payable by way of subsidy under this section shall be supported by a statutory declaration made by the Chairman of the Board, verifying a statement of all material particulars.

Apportionment of contributions among constituent Councils.

37. (1) The Board shall in every year, as soon as 20
practicable after receiving notification of the determination of the Minister of Finance under the *last preceding* section, hold a meeting and by resolution apportion the remainder of the net estimated expenditure, after deduction of the amount of the subsidy so 25
determined, among the constituent Councils in such proportions as the Board may determine, having regard to—

(a) The proportion which the area of the county 30
of each Council or, as the case may require, of such portion of the county as forms part of the district, bears to the area of the district:

(b) The proportion which the capital value of the 35
land in each county or, as the case may require, in such portion of the county as forms part of the district, bears to the capital value of the land in the district:

(c) The extent to which the land in each county or, 40
as the case may require, in such portion of the county as forms part of the district, is infested or in danger of being infested with *nassella tussock*:

(d) Such other matters as in the opinion of the Board are relevant.

(2) On such apportionment being made as aforesaid 45
the Board shall forthwith send to each of the constituent Councils a written notice showing the amount of the contribution to be paid by every constituent Council,

together with a copy of the estimate prepared under section *thirty-five* of this Act. A copy of the notice shall at the same time be sent to the Minister.

5 (3) If any of the constituent Councils is dissatisfied with the apportionment it may, within twenty-eight days after the date of the service on it of the notice, give notice in writing to the Board of its objection, setting out the grounds of the objection. The Council shall at the same time cause copies of the notice of
10 objection to be sent to each of the other constituent Councils, the Controller and Auditor-General, and the Minister.

(4) Upon receipt of a copy of a notice of objection under this section the Controller and Auditor-General
15 shall appoint an officer of the Audit Department who shall hold an inquiry and make an award as to the apportionment among the constituent Councils of the amount payable by those Councils as aforesaid. In making the award the person making it shall have
20 regard to all matters to which the Board is required by this section to have regard in making the apportionment, and to such other matters as in his opinion are relevant to the inquiry.

(5) Any such award may confirm or vary the
25 apportionment, and may declare by whom any moneys shall be paid, including 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 object
30 of the inquiry. Every such award shall be final and binding on the constituent Councils and the Board.

(6) No person appointed to hold an inquiry and make an award under this section shall be deemed to be an arbitrator within the meaning of the Arbitration
35 Act, 1908, and nothing in that Act shall apply to any such inquiry or award.

38. (1) Each of the constituent Councils shall within *thirty* days after the date of the service on it of the notice referred to in subsection *two* of the *last preceding*
40 section or, in the case of an objection and award under that section, within *thirty* days after the date of the award thereunder, pay to the Board one-half of the amount of the contribution required of it by the notice or, as the case may be, the award; and shall within
45 *six* months after the date of service of the notice as aforesaid pay to the Board the remaining half thereof.

See Reprint
of Statutes,
Vol. I, p. 346

Provisions as
to payment
and recovery
of contributions
of constituent
Councils.

(2) Interest at such rate as the Minister of Finance may from time to time prescribe shall be payable by the Council to the Board on any amount payable by the Council and remaining unpaid after the expiration of *fourteen* days from the date by which the payment should have been made under this section. 5

(3) If any Council liable to make any payment under this section fails to make the payment or any part thereof within the time prescribed by this section, the amount so unpaid, together with interest as aforesaid, may be recovered as a debt due to the Board by the Council. 10

Unpaid contribution may be deducted from subsidies payable to constituent Council.

39. If any Council liable to make any payment under the *last preceding* section fails to make the payment, or any part thereof, within the time prescribed thereunder, the Minister of Finance may, on the application of the Board, deduct from the subsidies payable to that Council under any Act or authority a sum equal to the amount so unpaid, together with interest thereon at the rate prescribed by the Minister of Finance under that section, and may pay the sum so deducted to the Board in satisfaction or part satisfaction of the amount due to the Board by the Council. 20

Contributions may be paid out of ordinary funds or raised by rate.

40. Every Council liable to pay any contribution to the Board under the foregoing provisions of this Act may pay the amount of the contribution, or any part thereof, out of its ordinary revenues, or may, if it thinks fit, in addition to its other rating-powers, raise the required amount, or any part thereof, by a rate to be made and levied for that purpose. 25

Advances by constituent Councils to meet first year's expenses of Board.

41. (1) Any of the constituent Councils may out of its general fund contribute by way of advance to the Board such sum as it thinks fit towards the expenses of the Board before the end of the financial year in which the Board is constituted. 30

(2) All moneys advanced by a Council under this section shall be repayable by the Board on demand, and shall be recoverable by the Council as a debt due to it from the Board. 35

Raising of loans by Councils for additional expenditure on works by Board.

42. (1) If in any financial year the Board deems it necessary, for the purpose of carrying out any works it is authorized to carry out under this Act, to raise moneys in addition to the moneys to be obtained by means of the contributions and subsidy hereinbefore mentioned, the Board may raise those moneys in the manner provided by this section. 40 45

(2) In the exercise of its powers under this section the Board shall be deemed to be a local authority for the purposes of the Local Government Loans Board Act, 1926, and any decision of the Board to raise 5 moneys under this section shall for the purposes of that Act be deemed to be a proposal to borrow moneys. The provisions of that Act shall, so far as applicable and with the necessary modifications, apply accordingly.

See Reprint
of Statutes,
Vol. V, p. 415

(3) Where the raising of moneys under this section 10 is authorized pursuant to the Local Government Loans Board Act, 1926, the sum authorized to be raised shall be payable to the Board by the constituent Councils, and shall be apportioned by the Board among the Councils in the same proportions as those in which the 15 aggregate contributions of the Councils towards the net estimated expenditure of the Board are apportioned in the same year.

(4) On such apportionment being made as aforesaid the Board may send to each Council a written notice 20 requiring payment to the Board of the sum payable by the Council under the apportionment. Every notice under this section shall specify the total sum authorized to be raised and the proportion thereof to be paid by each Council.

(5) If any Council fails, within *three months* after 25 the date of the service on it of a notice under this section, to pay to the Board the sum payable by the Council as specified in the notice, the amount unpaid may be recovered as a debt due to the Board from the 30 Council.

(6) For the purpose of providing any amount necessary to satisfy the requirement of the Board under this section, any of the constituent Councils may by special order, and without taking the steps prescribed 35 by sections nine to thirteen of the Local Bodies' Loans Act, 1926, raise a special loan for the whole or any part of the amount required.

Ibid., p. 365

Receipts and Expenditure

43. (1) All moneys belonging to the Board amount-
40 ing to *five* pounds and upwards shall within seven days after they have come to the hand of the proper officer of the Board be paid into the account of the Board at such bank as the Board from time to time appoints.

Moneys to
be paid into
bank.

(2) No moneys shall be withdrawn from the bank except by authority of the Board and by cheque signed by the Treasurer and countersigned by any one of such of the members as the Board from time to time authorizes to sign cheques. 5

Board may establish an Imprest Account.

44. (1) The Board may, pursuant to a resolution in that behalf, establish an Imprest Account, which shall, as the Board may determine, be kept in the Post Office Savings-bank or in any bank within the meaning of the Banking Act, 1908. 10

See Reprint of Statutes, Vol. I, p. 447

(2) The Imprest Account may be held jointly in the names of and be operated on by the Treasurer and one other person to be appointed in that behalf by the Board, or may with the express approval in writing of the Audit Office, but not otherwise, be in the sole name of and be operated on by the Treasurer or other approved officer of the Board. Where the Imprest Account is held jointly in the names of the Treasurer and of one other person as aforesaid, such last-mentioned person shall be either a responsible officer of the Board or a member of the Board. 15 20

(3) The Board shall from time to time by resolution fix the maximum amount that may be held at any time in the Imprest Account, not exceeding seventy-five pounds in any case where the Imprest Account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in any other case. 25

(4) Moneys in the Imprest Account shall be available only for the payment of wages and emergency expenditure. A statement of all payments made from the Imprest Account shall be submitted to the Board for approval at its first ordinary meeting thereafter. The payment of moneys out of the Imprest Account for any purpose not hereby authorized shall be deemed to be the misappropriation of the funds of the Board. 30 35

(5) The provisions of the *last preceding* section shall be read subject to the provisions of this section.

Deposit of moneys at interest.

45. The Board may, in any case where it is deemed advisable that any sum of money at credit of any account should be placed on deposit at interest, deposit that sum of money with any bank approved by the 40

Board or, with the consent of the Governor-General in Council, may deposit that sum with any local authority or public body entitled by law to receive moneys on deposit.

5 **46.** For the purpose of exercising any of its powers under this Act the Board may expend its funds in such manner as it thinks fit. Board may expend moneys for purposes of Act.

47. The Board may pay to its members such travelling expenses and allowances as may from time to time be prescribed by regulations under this Act in respect of attending meetings of the Board or travelling on the business of the Board with the authority of the Board. Travelling-expenses of members.

10 **48.** It shall be lawful for the Board from time to time to enter into contracts of insurance insuring members of the Board against loss from personal accident arising out of and in the course of the exercise of their powers or duties as members, and to pay the premiums payable in respect of such contracts. Insurance of members against personal accident while engaged in duties.

20 **49.** The Board may in any financial year out of its income available for general purposes expend for purposes not authorized by any Act or law for the time being in force any sum or sums not amounting in the whole to more than one per centum of the gross receipts of the Board in that year, nor in any case to more than *fifty* pounds. Unauthorized expenditure.

Accounts and Audit

50. (1) The Board shall cause books of account to be provided and kept, and true and regular accounts to be entered therein, of all sums of money received and paid, and of the several purposes for which those sums of money have been received and paid. Books of account to be kept.

35 (2) Any member of the Board, and any member of any of the constituent Councils, may at all reasonable times inspect the books and take copies of or extracts from the same without fee.

(3) Every person having the custody of the books who does not, on the reasonable demand of any such member as aforesaid, permit him to inspect the books, or to take copies or extracts as aforesaid, commits an offence against this Act.

Accounts to be kept in accordance with requirements of Audit Office.

51. The Board shall keep such accounts and keep them in such manner as may be prescribed by the Audit Office, but so always that—

- (a) A General Account shall be kept, and credited with all moneys not required by this Act to be carried to any other account, and debited with expenditure that is not required by or under this or any other Act to be charged, or that is not otherwise properly chargeable, against any other account; and
- (b) Separate accounts shall be kept and credited with all moneys raised or levied for, or appropriated or allocated to, or held in trust or received for, any special purpose, and debited with expenditure properly chargeable against such accounts.

(2) The decision of the Audit Office as to whether or not any expenditure is properly chargeable against any such account shall be final.

Transfers from General Account to meet deficiencies.

52. (1) If the balance in any of the separate accounts is at any time insufficient to meet the lawful charges thereon, the Board may transfer such sums as are necessary from the General Account to meet the same, and may at any time repay any sum so transferred out of any excess in the receipts over the liabilities of that separate account.

(2) It shall not be lawful to make any transfer from any one to any other of the separate accounts, except as in this Act provided.

Establishment of renewal or replacement funds.

53. (1) The Board may from time to time set aside any moneys to form a fund or funds for the repair, renewal, replacement, or improvement of any property, plant, fixtures, or appliances of the Board, or for the purpose of purchasing additional property, plant, fixtures, or appliances of the class for which the fund or funds is or are established.

(2) The moneys so set aside and any other moneys payable into the fund or funds shall be paid into a separate bank account in the name of the Board.

(3) The Board may from time to time apply the moneys forming the fund or funds only to the purposes aforesaid, or any of them, and the Board, until the moneys are required for any of those purposes, may
5 invest any of the moneys in the manner following:—

- (a) In New Zealand Government securities; or
- (b) On deposit in any bank lawfully carrying on the business of banking in New Zealand, or in the Post Office Savings-bank; or
- 10 (c) In the Common Fund of the Public Trust Office; or
- (d) In any other securities that may from time to time be authorized by the Governor-General in Council.

15 **54.** (1) On or before the *fifteenth* day of April in each year the Treasurer of the Board shall prepare and send to the Audit Office a yearly balance-sheet, being an abstract of the accounts above mentioned during the financial year ended on the *thirty-first* day
20 of March then last past, together with the statements following:—

- (a) A statement of the whole assets and liabilities of the Board at the end of that year;
- 25 (b) A statement of the real estate belonging to the Board, showing the terms, conditions, and rents for which any parts thereof are let on lease or otherwise, and the amounts of the rents in arrear in each case.

(2) The yearly balance-sheet and statements shall
30 be audited by the Audit Office, which for that purpose shall have all such powers as it has under the Public Revenues Act, 1926, in respect of public moneys and the audit of local authorities' accounts.

(3) A copy of the yearly balance-sheet and state-
35 ments shall when duly audited be submitted to the Minister, accompanied by a report as to the operations of the Board for the year.

Yearly
balance-sheet
and statements.

See Reprint
of Statutes,
Vol. VII, p. 10

Contracts

40 **55.** The Board may enter into any contract for any of the purposes of this Act.

Board may
enter into
contracts for
purposes of
Act.

Mode of
contracting.

56. (1) Any contract which if made between private persons must be by deed shall, if made by the Board, be in writing under the seal of the Board.

(2) Any contract which if made between private persons must be in writing signed by the parties to be charged therewith shall, if made by the Board, be either in writing under the seal of the Board or in writing signed by two members of the Board on behalf of and by direction of the Board. 5

(3) Any contract which if made between private persons may be made orally may be similarly made by or on behalf of the Board by any two members acting by direction of the Board, but no oral contract shall be made involving the payment by the Board of a sum exceeding *twenty* pounds. 10

(4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in manner provided by this section, if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board. 15 20

Functions and Powers of Boards

Board to
administer
Part I of Act
within its
district.

57. Each Board shall be charged with the administration of Part I of this Act within its district, and nothing in that Part shall apply with respect to any of the constituent Councils. 25

Functions and
powers of
Board.

58. (1) The principal function of the Board shall be to do all such acts and things as appear to the Board to be necessary or expedient for eradicating nassella tussock within its district or for preventing the spread thereof. 30

(2) For the purposes of carrying out its functions the Board shall have and may exercise all the powers, rights, and privileges conferred on County Councils by Part I of this Act, and the provisions of that Part, except sections *four, thirteen, seventeen, and eighteen* thereof, shall, so far as applicable and with the necessary modifications, apply accordingly as if the Board were a Council and the district were a county. 35

59. (1) The Board may from time to time make By-laws.
by-laws—

- 5 (a) Prohibiting the lighting of fires in its district except under such circumstances and subject to such limitations, conditions, and restrictions as may be prescribed by the by-laws or pursuant thereto:
- 10 (b) Regulating or prohibiting the destruction of, or interference with, trees, shrubs, plants, or grasses within its district:
- 15 (c) Generally preventing trespasses, nuisances, and damage to plantations, fences, or other works established or maintained by the Board, and making all such provision as the Board deems necessary or expedient for the protection and proper management of its property and all machinery and works of every kind under its care, control, and management.

20 (2) Any by-laws made under this section may be made to apply to any specified class or classes of land or to all land other than land of any specified class or classes.

25 (3) By-laws made by the Board under this section may prescribe fines not exceeding *fifty* pounds for any breach thereof, and in the case of a continuing breach may prescribe a further fine not exceeding *five* pounds for every day during which the breach continues.

30 (4) A copy of every by-law made under this section shall, within *seven* days after the making thereof, be sent by the Board to the Minister, who may at any time thereafter, by notice published in the *Gazette*, disallow the by-law, either wholly or in part, if in his opinion it is unreasonable or undesirable.

35 (5) On any such disallowance as aforesaid the by-law shall, to the extent to which it is so disallowed, become wholly void as if it had been revoked.

40 (6) Any such disallowance as aforesaid shall take effect either on the day of the publication of the notice of disallowance in the *Gazette* or on such later date as may be specified in that behalf in the notice.

(7) So far as any by-laws made by the Board are inconsistent with or repugnant to any by-laws made by any of the constituent Councils the by-laws of that Council shall within the county be deemed to be subject
45 to the by-laws of the Board.

(8) Any of the constituent Councils may, with the consent of the Board, undertake within its own county the administration and enforcement of any by-laws made by the Board, and in such case all fines imposed for breaches of the Board's by-laws within the county shall, for the purposes of section thirteen of the Finance Act, 1927 (No. 2), be deemed to be fines imposed in respect of breaches of the by-laws of the Council. 5

See Reprint of Statutes, Vol. II, p. 346

Procedure as to making of by-laws.

60. (1) By-laws of the Board shall be made only in the manner and subject to the conditions following:— 10

- (a) They shall be made by special order:
- (b) A copy of any proposed by-law shall be sent by the Board to each of the constituent Councils at least *twenty-one* days before the date of the meeting of the Board at which the resolution making the proposed by-law is to be submitted for confirmation: 15
- (c) They may be amended before confirmation of the resolution making the by-laws: 20
- (d) They shall have the common seal of the Board affixed thereto:
- (e) Subject to the provisions of subsections *four to six* of the *last preceding* section, they shall come into force on a day to be fixed at the meeting at which the resolution making the by-laws is confirmed, which day shall be not earlier than *seven* clear days after the date of that meeting. 25

(2) Any by-law may in like manner be altered or revoked. 30

Special orders.

61. Every special order made by the Board under this Part of this Act shall be made and may be proved in the same manner as if it were a special order of a County Council, and the provisions of the Counties Act, 1920, relating to the making and proof of special orders shall, so far as applicable and with the necessary modifications, apply accordingly. 35

See Reprint of Statutes, Vol. V, p. 180

Legal Proceedings

Representation of Board in proceedings in Magistrate's Court, &c.

62. In all proceedings in which the Board is concerned under any Act relating to bankruptcy, and in all proceedings in a Magistrate's Court or before 40

any Justice, the Secretary, or any other person from time to time appointed by the Board for the purpose, may appear and act on behalf of the Board.

5 **63.** Any summons, writ, or other legal proceeding requiring to be served on the Board may be served by being left at the public office of the Board or given personally to the Chairman or Secretary.

Service of legal proceedings on Board.

10 **64.** (1) No action or proceeding shall lie against the Board, or any member or officer of the Board or other person acting under the authority or in the execution or intended execution or in pursuance of this Act or any other Act, for any alleged irregularity, or trespass, or nuisance, or negligence, or any act or omission whatever, unless notice in writing specifying the cause of the action or proceeding, and the name and residence of the intending plaintiff or prosecutor, and of his solicitor or agent in the matter, is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement

Notice to be given to Board of proposed actions.

20 of the action or proceeding.
(2) Every such action or proceeding shall be commenced within six months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within three months next after

25 the doing of such damage has ceased, and not afterwards.

(3) Every such action or proceeding shall be laid and tried in the Court nearest to the place where the cause of action or a material part thereof arose, and

30 not elsewhere.

(4) In any such action or proceeding the defendant may plead generally that the act or thing complained of was done or omitted under the authority or in the execution or intended execution or in pursuance of this

35 Act or any other Act, and may give all special matter in evidence.

(5) On the trial or hearing of any such action or proceeding the plaintiff or prosecutor shall not be permitted to go into evidence of any cause or ground

40 thereof not stated in the notice given by him under this section.

(6) The plaintiff in any such action shall not succeed if tender of sufficient amends is made by the defendant within one month after the giving of the notice of

action; and in case no tender has been made the defendant may, in accordance with the practice of the Court in which the action is brought, or by leave of the Court, at any time pay into the Court such sum of money as he thinks fit; whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary action. 5

(7) In cases of injury to the person the person injured shall permit himself to be examined by any medical practitioner appointed by the Board, and in every case the property injured, and all accounts and vouchers in respect of the injury (whether to person or property), may be examined by any person appointed by the Board or the Chairman thereof. 10 15

(8) In cases of injury to the person (whether resulting in death or not) the Court may, before or at the trial or hearing, waive the non-compliance or insufficient compliance with subsections *one* and *two* of this section, if satisfied that there was reasonable excuse, and on such terms as the Court thinks fit. 20

(9) Nothing in this section shall apply with respect to any action or proceeding commenced by the Audit Office under the Public Revenues Act, 1926, the Local Authorities (Members' Contracts) Act, 1934, or any other Act. 25

See Reprint
of Statutes,
Vol. VII, p. 10
1934, No. 17

PART III

MISCELLANEOUS

Power to enter
on land.

65. (1) Subject to the provisions of this Act, any Inspector, and any other person authorized in that behalf by the Council in the case of a county, or by the Board in the case of a district, may for the purposes of this Act enter at all reasonable times upon any land in the county, or, as the case may be, the district, and inspect the land, and may take in respect thereof such measures and execute thereon such works as may be authorized under this Act: 30 35

Provided that the power of entry conferred by this section shall not be exercised for the purpose of taking any such measures or executing any such works as aforesaid on any private land except after twenty-four hours' previous notice of the intended entry given to the person in actual occupation of the land. 40

(2) Every Inspector shall be furnished by the Council or, as the case may require, the Board with a certificate of his appointment.

(3) Every Inspector and every other person authorized in writing as aforesaid shall produce his certificate of appointment or authority in writing, as the case may be, when so required by the owner or by the person in actual occupation of the land upon which he enters in the course of his duty.

(4) Every person who falsely represents himself to be an Inspector or a person authorized in writing as aforesaid commits an offence against this Act.

(5) Neither the Board nor any Council or Inspector or person authorized in writing as aforesaid shall be deemed to be a trespasser or be liable for any damage resulting from the exercise of the powers conferred by this section unless the damage is caused otherwise than in the reasonable exercise of such powers.

66. Where any land abuts on a road or is intersected by a road, the boundaries of the land on each side of the road shall for the purposes of this Act be deemed to extend to the middle-line of the road, and any Council, Board, Inspector, owner, or other person required or authorized under or pursuant to this Act to enter on land or take measures for any of the purposes of this Act shall be deemed to have power to enter on so much of the road as is within such extended boundaries and to take those measures thereon:

Lands deemed to include parts of boundary roads for purposes of Act.

Provided that the power conferred by this section shall not be deemed to authorize the doing of any act which in any way injures the road.

67. Where any owner who is a trustee is served with a notice under section *eight* of this Act he may, notwithstanding anything to the contrary in the instrument (if any) creating the trust,—

Provision where owner is a trustee.

(a) Do all such acts and things as are specified in the notice:

(b) If in his opinion it is necessary so to do, pay or apply any capital moneys subject to the same trust for or towards any such purpose:

(c) Raise any money required for or towards any such purpose by obtaining an advance under this Act from the Council or, as the case may be, the Board serving the notice, or by sale, conversion, calling in or mortgage of all or any part of the property subject to the same trust and for the time being in possession. 5

Power of registered mortgagee or occupier to do acts required of owner.

68. (1) Where under this Act the owner of any land is required by any Council or Board to do any act or thing and the owner fails or refuses to do that act or thing, any registered mortgagee of the land, or, with the prior approval in writing of the Council or, as the case may require, of the Board, the occupier of the land, may do the act or thing. 10

(2) Notwithstanding any covenant or agreement whatsoever to the contrary, any expenses incurred by any mortgagee pursuant to this section shall be recoverable by the mortgagee from the owner as a debt due to the mortgagee by the owner or, on notice in writing to the mortgagor by the mortgagee, shall be deemed to be added to the principal sum owing under the mortgage and to be secured thereby, and if the mortgagor is not the owner, the amount so deemed to be added shall be recoverable by the mortgagor from the owner as a debt due to the mortgagor by the owner. 15 20 25

(3) Notwithstanding any covenant or agreement whatsoever to the contrary, any expenses incurred by the occupier pursuant to this section shall be recoverable by the occupier from the owner as a debt due to the occupier by the owner or may be deducted by the occupier from, or set off against, any rent due or thereafter to become due by the occupier in respect of the land. 30

(4) The exercise by a mortgagee or the occupier of the powers conferred by this section shall not relieve any person from liability to any penalty for failure to comply with the requirements of any notice under this Act. 35

(5) For the purposes of this section the expression "registered mortgagee" means a mortgagee of the land under a mortgage which is registered under the Deeds Registration Act, 1908, or the Land Transfer Act, 1915, or in respect of which a caveat is lodged with the appropriate District Land Registrar; and includes 40

See Reprint of Statutes, Vol. VII, pp. 1143, 1162

the holder of any charge on the land which is duly registered pursuant to the Statutory Land Charges Registration Act, 1928.

See Reprint
of Statutes,
Vol. VII,
p. 1280

5 or Board any moneys in respect of work done on the land under this Act or in respect of any advance made under this Act for the purpose of enabling the owner to do any such work in order to comply with any requirements made under this Act, or if the owner
10 without obtaining an advance does any such work as aforesaid, and if at the time of the completion of the work (to be certified under the hand of an Inspector or other authorized officer of the Council or the Board) the land whereon the work has been done is held by a
15 tenant under the owner by virtue of a tenancy for at least *five* years certain of which at least *three* years are then unexpired, the owner shall be entitled to recover in any Court of competent jurisdiction from the tenant, as a debt, such part of the moneys so paid, or, as the
20 case may require, such part of the cost of the work, as in the opinion of the Court is just and equitable having regard to all the circumstances of the case.

Owner may
recover
expenditure in
certain cases.

(2) If the tenant paying any moneys to the owner under this section has, at the time of the payment, a
25 tenant under him by virtue of a tenancy for at least *five* years certain of which at least *three* years are then unexpired, he shall be entitled to recover in any Court of competent jurisdiction from the last-mentioned tenant, as a debt, such part of the moneys paid by him
30 to the owner as in the opinion of the Court is just and equitable having regard to all the circumstances of the case.

70. (1) All moneys payable to any Council or Board by the owner of any land in respect of any
35 work done by the Council or the Board under this Act, or in respect of advances made under this Act for the purpose of enabling the owner to comply with any requirements made thereunder, shall be a charge on the land in respect of which the work was done or the
40 requirements made.

Moneys
payable to
Council or
Board to be
charge on
land.

(2) Every charge on land created by this Act shall, save as hereinafter provided, have priority over all existing or subsequent mortgages, charges, or encumbrances, howsoever created, including mortgages, charges, or encumbrances in favour of the Crown. 5
Notwithstanding anything to the contrary in any other enactment, if any land subject to a charge created by this Act is also subject to a charge created by that other enactment, the charges shall rank equally with each other unless by virtue of that other enactment the charge created thereby would be deferred to the charge created by this Act. 10

Obstruction of Board or authorized persons.

71. (1) Every person commits an offence against this Act who obstructs or hinders any Board, or any member or officer of the Board, or any other person employed or duly authorized by the Board, in carrying out any provision of this Act or doing any act or thing authorized thereby, or who threatens, assaults, or uses abusive language to any member, officer, or other person as aforesaid who is carrying out any such provision or doing any such act or thing. 15 20

(2) No proceedings for the recovery of any such fine, nor the payment thereof, shall be a bar to any action by any of the persons aforesaid for or in respect of any such assault as aforesaid, but such action may not be commenced and proceeded with as if this Act had not been passed. 25

Failure to disclose name of owner of premises.

72. If the occupier or the agent of the owner of any premises, on being requested by an Inspector or any other person acting on behalf of any Council or Board to state the name and address of the owner of the premises, refuses or wilfully omits to disclose or wilfully misstates the same, he commits an offence against this Act. 30

Interference with owner by occupier.

73. If in performing or attempting to perform any duty imposed on him by or pursuant to this Act the owner of any land is in any way obstructed or hindered by the occupier or by any other person, the occupier or other person commits an offence against this Act. 35

Damage to notice-boards, &c.

74. Every person commits an offence against this Act who wilfully destroys, removes, pulls down, injures, or defaces any board, placard, or notice set up, made, or published under this Act. 40

75. (1) Every owner or occupier of any land commits an offence against this Act who, without the consent of the Council or Board in whose county or district the land is situated, wilfully destroys or damages any trees, shrubs, plants, or grasses planted, sown, or maintained on the land, or any other work established or maintained thereon, pursuant to this Act or to any notice given under this Act.
- 5
- (2) Every other person commits an offence against this Act who wilfully destroys or damages any plantation or other work established or maintained pursuant to this Act or to any notice given under this Act.
- 10
- (3) Where any person destroys or damages any plantation or other work established or maintained as aforesaid, the Council or Board in whose county or district the plantation or work is situated shall have power to execute any works and do any things which are in its opinion necessary in order to restore or repair the damage, and the amount of any expenses reasonably incurred by the Council or the Board in so doing shall be recoverable as a debt due to the Council or, as the case may be, the Board, by that person, whether or not he has been guilty of an offence under this section.
- 15
- 20
- 25 76. Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section shall be liable to a fine not exceeding *fifty* pounds and (if the offence is a continuing one) to a further fine not exceeding *five* pounds for every day during which the offence continues.
- 30
77. All proceedings in respect of offences against this Act or against any regulations or by-laws made under this Act shall be taken in a summary way under the Justices of the Peace Act, 1927.
- 35
78. Notwithstanding anything to the contrary in the Justices of the Peace Act, 1927, any information in respect of any offence against this Act or against any regulations made under this Act may be laid at any time within twelve months after the commission of the offence.
- 40
- 45 79. In any proceedings for the recovery of money under section *eleven* or section *sixty-eight* or section *sixty-nine* of this Act the jurisdiction of the Court before which the proceedings are brought shall not be ousted on the ground that any question of title is involved.

Damage to plantations, &c.

General penalty for offences.

Offences punishable summarily.

See Reprint of Statutes, Vol. II, p. 351

Time for laying informations.

Jurisdiction of Court not ousted by question of title.

Authentication
of documents.

80. Every notice or other document under this Act requiring authentication by any Council or Board shall be sufficiently authenticated if signed by two members of the Council or, as the case may require, of the Board, or by the Chairman, or by the clerk of the Council or, as the case may require, the Secretary of the Board, and it need not be under the common seal of the Council or the Board. 5

Service
of notices.

81. (1) Any notice required or authorized under this Act to be served on any person may be served by delivering it to that person or by posting it by registered letter addressed to that person at his last known place of abode or business in New Zealand. A notice so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered. 10 15

(2) If the person is absent from New Zealand the notice may be served in any such manner as aforesaid on his agent in New Zealand. If he is deceased the notice may be served in any such manner as aforesaid on his personal representative. 20

(3) If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representative, the notice may be served in such manner as may be directed by the Supreme Court, or, in the case of a notice relating to any land, may be served in any such manner as aforesaid on the person in actual occupation of the land, or left with some inmate of his abode, or affixed on some conspicuous place on the land or on some road or street abutting thereon, or may be served by public notice. It shall not be necessary in any such notice to name the owner or person in actual occupation of the land. 25 30

(4) Notwithstanding anything in the foregoing provisions of this section, the Supreme Court may in any case make an order directing the manner in which any notice is to be served, or dispensing with service thereof. 35

Power to
rectify
omissions or
to validate
irregularities,
&c.

82. Where anything is omitted to be done or cannot be done at the time required by or under this Act, or is done after such time, or is otherwise irregularly done in matter of form, or sufficient provision is not made by or under this Act, the Governor-General may, by 40

Order in Council, at any time before or after the time within which such thing is required to be done, extend such time, or may validate anything so done after the time required, or so irregularly done in matter of form, 5 or make such other provision for the case as he thinks fit.

83. (1) The Governor-General from time to time, by Order in Council, may make regulations for any purpose for which regulations are contemplated by this Act, and 10 may make all such other regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore 15 conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

- (a) Prohibiting the sowing, sale, or offering for sale of grass-seed or other seed or grain, or the 20 sale or offering for sale of any fodder within the meaning of the Stock Act, 1908, except under such circumstances and subject to such limitations, conditions, and restrictions as may be prescribed by the regulations or pursuant thereto:
- (b) Regulating or prohibiting the moving of live-stock from any area infested with nassella tussock into or over any area not so infested:
- (c) Prescribing means to be adopted for the eradication or control of nassella tussock: 30
- (d) Generally for requiring the doing on or in respect of any land of any act or thing likely to prevent the spread of nassella tussock or to facilitate the eradication or control thereof, 35 and for prohibiting the doing on or in respect of any land of any act or thing likely to facilitate the spread of nassella tussock:
- (e) Prescribing fines for the breach of any regulation made under this Act, not exceeding 40 *fifty* pounds in any case or, where the breach is a continuing one, not exceeding *five* pounds for every day or part of a day during which the breach continues.

Regulations.

See Reprint
of Statutes,
Vol. I, p. 311

(3) Any regulations made under this section may apply generally throughout New Zealand or within any specified part or parts thereof, and may from time to time be applied by the Minister by notice in the *Gazette* to any part of New Zealand, and any such notice may at any time in like manner be revoked or varied. 5

(4) The operation of any regulations made under this section may, if so provided therein, be wholly suspended until they are applied by the Minister by notice pursuant to the *last preceding* subsection. 10

Regulations
may be made
applying to
districts.

84. (1) Without limiting any of the powers conferred by the *last preceding* section, it is hereby declared that regulations may be made under that section for all or any of the following purposes:—

(a) Regulating or prohibiting the destruction of, or interference with, trees, shrubs, plants, or grasses in any district: 15

(b) Prohibiting the lighting of fires in any district except under such circumstances and subject to such limitations, conditions, and restrictions as may be prescribed by the regulations or pursuant thereto: 20

(c) Regulating or prohibiting any change in the use of any land in any district:

(d) Regulating or restricting the use of any land in any district for agricultural or pastoral purposes. 25

(2) Any regulations made under this section may be made to apply to the whole of any district, or to any specified part of any district. 30

General
provisions as
to regulations.

85. (1) Any regulations made under this Act may be made to apply to any class or classes of land, or to all land, or to all land other than land of any specified class or classes, within the area to which the regulations apply. 35

(2) Regulations made under this Act may authorize any matter or thing to be determined, applied, or regulated from time to time by any Board or any local authority, or by any other body, person, or class of persons. 40

(3) No regulation made under this Act, and no direction, requirement, prohibition, condition, limitation, or restriction given or imposed under any regulation made under this Act, shall be deemed to be invalid

on the ground that it delegates to or confers on the Governor-General or any Board or any local authority or any other body, person, or class of persons any discretionary authority.

- 5 (4) So far as the by-laws of any local authority are inconsistent with or repugnant to any regulations under this Act in force in the district of that local authority, the by-laws shall be deemed to be subject to the regulations.
- 10 (5) Any regulations under this Act may provide that it shall be the duty of the Board or any local authority within whose district the regulations apply to enforce them effectively, and if in any such case the Board or local authority fails so to do the Minister may
- 15 do all such acts and things as he thinks fit to enforce those regulations in the district of the Board or local authority and the costs, charges, and expenses thereof shall be recoverable from the Board or the local authority, as the case may be, in any Court of com-
- 20 petent jurisdiction as a debt due to the Crown, or the amount thereof may be deducted from any subsidy or other moneys that may from time to time be payable to the Board or local authority out of public moneys.

25 **86.** All regulations made under this Act shall be laid before Parliament within fourteen days after the making thereof if Parliament is then in session, and, if not, then within fourteen days after the commencement of the next ensuing session.

Regulations
to be laid
before
Parliament.

30 **87.** (1) Sections eight and nine of the Statutes Amendment Act, 1943, and section twelve of the Statutes Amendment Act, 1944, are hereby repealed.

Repeals and
savings.
1943, No. 20
1944, No. 25

(2) All appointments, arrangements, agreements, notices, and generally all acts of authority which originated under any of the enactments hereby repealed

35 and are subsisting or in force on the commencement of this Act shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

40 (3) All matters and proceedings commenced under the said enactments, and pending or in progress on the passing of this Act, may be continued, completed, and enforced under this Act.

Schedule.
Section 8.

SCHEDULE

NOTICE TO ERADICATE NASSELLA TUSSOCK

The Nassella Tussock Act, 1946

To A.B., [*Owner of land*],
[*Address*].

TAKE notice that the undermentioned Council (*or* Board), pursuant to section 8 of the Nassella Tussock Act, 1946, hereby requires you, under the supervision of the Council (*or* Board), to do on or in respect of the land described in the schedule hereto the acts and things specified in that schedule.

SCHEDULE

1. Description of land: .
2. Acts and things to be done: .
Dated at , this day of , 19 .
Clerk of the County Council.
(*or*, Secretary to the
Nassella Tussock Board.)

N.B.—Your attention is drawn to sections 8 and 9 of the Nassella Tussock Act, 1946, printed on the back hereof.

[*On the back of the notice are to be printed sections 8 and 9.*]