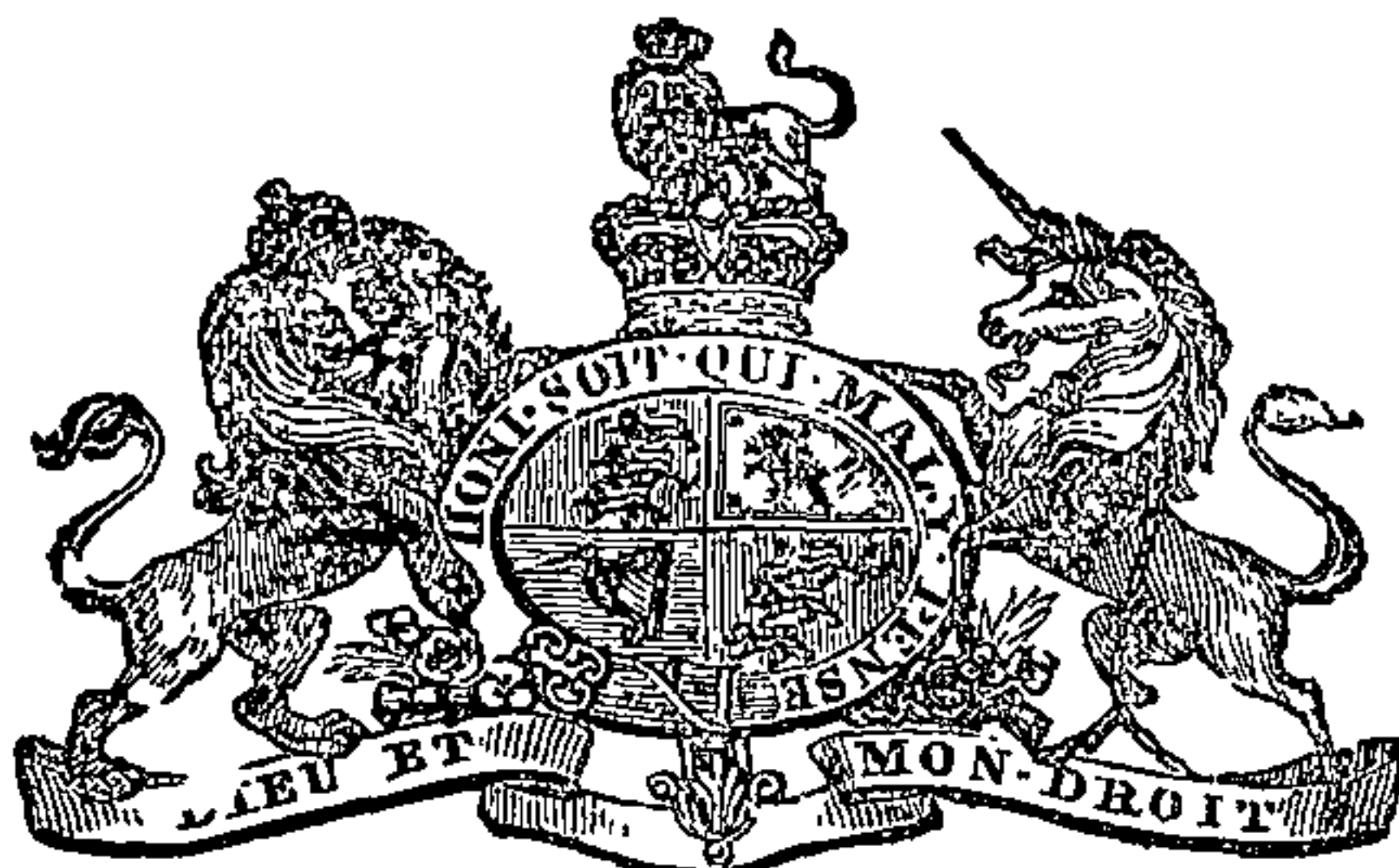


New Zealand.



ANALYSIS.

<p>Title.</p> <p style="text-align: center;">SHORT TITLE AND INTERPRETATION.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Governor may appoint Inspectors.</p> <p>AS TO DESTRUCTION OF RABBITS ON CROWN LAND.</p> <p>4. Power of entry on Crown land to see whether rabbits thereon.</p> <p>5. Power to destroy rabbits on Crown land.</p> <p>6. Cost of such destruction, how defrayed.</p> <p>AS TO DESTRUCTION OF RABBITS ON PRIVATE LAND.</p> <p>7. Power of entry on private land to see whether rabbits thereon.</p> <p>8. Inspector may serve notice on owner to destroy rabbits.</p> <p>9. Penalty for neglect to comply with such notice.</p> <p>10. Further penalty for continued neglect.</p> <p>11. In addition to penalty, Inspector may enter upon private land and destroy rabbits thereon.</p> <p>12. Owners within thirty days of service of notice to pay cost of destruction.</p> <p>13. If cost not so paid, Inspector to sue for same.</p> <p>14. If judgment not satisfied within three months, Colonial Secretary to certify amount to Public Trustee.</p> <p>15. Thereupon Public Trustee may sell land.</p> <p>16. Proceeds of sale, how applied.</p> <p>17. Provisions applying to sale.</p> <p>18. On purchase-money being paid, Public Trustee may execute transfer of conveyance.</p> <p>19. Purchase not affected by impropriety or irregularity in sale.</p> <p>20. Transfers may be registered without production of duplicate certificate.</p> <p>21. If notice to destroy served upon owner not entitled to occupation, he may enter and destroy.</p>	<p>22. Apportionment of costs between several owners.</p> <p>23. As to description of private lands in notices.</p> <p>24. References to private lands to extend to roads bounding such lands.</p> <p style="text-align: center;">MISCELLANEOUS.</p> <p>25. Inspector on notice to ascertain as to abundance of rabbits on any lands.</p> <p>26. Inspector, &c., not deemed a trespasser.</p> <p>27. Act not to authorize destruction of rabbits kept in cages.</p> <p>28. Governor in Council may declare any animal to be natural enemy of rabbit.</p> <p>29. Penalty for killing, &c., any such animal.</p> <p>30. Penalties for personating Inspector, &c.</p> <p>31. Penalty for unauthorized trespassing upon private lands.</p> <p>32. Penalty for wilfully obstructing, &c., any Inspector.</p> <p>33. Penalty for wilfully setting rabbits loose.</p> <p>34. In proceedings for recovery of penalties under sections 9 and 10, onus of proof of exemption upon defendant.</p> <p>35. Jurisdiction of Court or Justices not ousted on ground that defence raises question of title.</p> <p>36. Fines and penalties to be part of Consolidated Fund.</p> <p>37. Trustees of Rabbit Trusts under Act of 1880 to pay moneys belonging to them as such into Public Account.</p> <p>38. Trustees of Rabbit Trusts under Act of 1880 to deliver to Inspector property belonging to them as such.</p> <p>39. Colonial Treasurer to defray liabilities lawfully incurred by Rabbit Trusts.</p> <p>40. Act to be in operation for three years.</p> <p>41. Repeal.</p> <p>Schedules.</p>
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1882, No. 66.

AN ACT to provide for the Abatement of the Rabbit Nuisance. Title.
[15th September, 1882.]

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

SHORT TITLE AND INTERPRETATION.

1. The Short Title of this Act is "The Rabbit Nuisance Act, 1882"; and it shall come into operation on the first day of October, one thousand eight hundred and eighty-two. Short Title.

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

Interpretation.

“Private land” means any land alienated from the Crown in fee-simple or for any less estate or interest, and whether by Crown grant, conveyance, certificate of title, memorial of ownership, transfer, lease, license, or otherwise howsoever; or any land whether alienated from the Crown or not of which any person shall be in actual occupation, or in receipt of the rents or profits thereof:

“Crown land” means any land owned by Natives under their customs and usages, and for which no Crown grant, certificate of title, or memorial of ownership has been issued, unless there be any person in actual occupation thereof or in receipt of the rents and profits thereof, or any land not coming within the definition of “private land” herein contained:

“Owner” means any person, including in the word “person” any body or society incorporated or not, owning any estate or interest in any private land, or any person who by the law for the time being regulating the recovery of rates is or may become liable to pay any rates leviable in respect of such private land, or any person in possession or occupation, or in receipt of the rents or profits of any private land, or any agent, trustee, executor, or administrator of an owner:

“Inspector” means an Inspector of Sheep appointed under “The Sheep Act, 1878,” or any Act hereafter passed in lieu thereof, or any person who may be appointed an Inspector hereunder:

“Writing” includes printing or partly writing and partly printing:

Where reference is made to the service of a notice, it shall mean service in any one of the following modes—

(a.) Personally upon the person to whom the notice is addressed:

(b.) By sending the notice to such person through the post addressed to his last known place of abode or business in the colony:

(c.) By fixing the notice upon some conspicuous place on the land affected by such notice, or on some public road abutting thereon:

(d.) If the whereabouts or last known place of abode or business in the colony of the person to whom such notice is addressed is not known to the Inspector issuing such notice, by inserting the same three times in a newspaper circulating in the county or borough in which the lands affected by such notice are situate.

Where the name of an owner is unknown to any Inspector issuing a notice under this Act, or suing under the thirteenth section hereof, the notice may be addressed to the owner as such without mentioning his name, and similarly the owner may be sued and judgment given against him, as such without specifying his name.

Governor may
appoint Inspectors.

3. The Governor may from time to time appoint any person to be an Inspector under this Act.

AS TO DESTRUCTION OF RABBITS ON CROWN LAND.

4. Any Inspector, or any person authorized by an Inspector, may from time to time, at all reasonable hours, enter upon any Crown land for the purpose of seeing whether there are rabbits on such Crown land, and shall have free right of ingress, egress, and regress into, over, and across such Crown land for such purpose.

Power of entry on Crown land to see whether rabbits thereon.

5. Any Inspector, or any person authorized by an Inspector, may from time to time enter upon any Crown land, and also upon the roads bounding such land, and use all such means and shall take all such measures and do and perform all and every such acts and things as may to him appear proper or necessary to insure the destruction of the rabbits upon such land.

Power to destroy rabbits on Crown land.

Provided always that the power hereby conferred of entering upon roads and destroying the rabbits thereon shall not be deemed to authorize the doing of any act which shall in any way injure such road.

6. All costs, charges, and expenses incurred under the preceding section shall be defrayed out of moneys appropriated from time to time for the purpose by the General Assembly.

Cost of such destruction, how defrayed.

AS TO DESTRUCTION OF RABBITS ON PRIVATE LAND.

7. Any Inspector, or any person authorized by an Inspector, may from time to time, at all reasonable hours, enter upon any private land for the purpose of seeing whether there are rabbits on such private land, and shall have free right of ingress, egress, and regress into, over, and across such private land for such purpose.

Power of entry on private land to see whether rabbits thereon.

8. Any Inspector may serve or cause to be served upon any one or more of the owners of any private land on which he believes there are rabbits a notice in writing, in the form or to the effect set forth in Schedule A hereto, requiring the immediate destruction of the rabbits on such land.

Inspector may serve notice on owner to destroy rabbits.

9. If, immediately upon the service of such notice, such one or more of the owners upon whom the same is served do not commence to do all such acts, deeds, matters, and things as in the opinion of the Inspector may be necessary to destroy the rabbits on the land mentioned in such notice in the shortest time possible, and having so commenced do not continue such action until such rabbits are destroyed, each of the owners upon whom such notice has been served shall be liable to a penalty of not less than one pound nor more than twenty pounds.

Penalty for neglect to comply with such notice.

10. After the expiration of one month from the date of a conviction under the last preceding section, if there shall still, in the opinion of the Inspector, be rabbits on the land mentioned in such notice, each or any one or more of the owners upon whom the notice referred to in the preceding section has been served shall be liable to a further penalty of not less than five pounds nor more than twenty pounds, and so on for each succeeding period of one month during which there shall still, in the opinion of the Inspector, be rabbits on such land.

Further penalty for continued neglect.

11. If any owner shall neglect or fail to comply with any notice as aforesaid to destroy rabbits, then, in addition to or in lieu of proceedings for the recovery of a penalty as aforesaid, any Inspector

In addition to penalty, Inspector may enter upon private land and destroy rabbits thereon.

or any person authorized by an Inspector may enter upon the private land mentioned in such notice, and use all such means, and take all such measures, and do and perform all and every such acts or things as to him may appear proper or necessary to be done to insure the destruction of the rabbits upon the private land mentioned in such notice, and shall have free right of ingress, egress, and regress into, over, and across such private land for such period as may in his opinion be necessary for destroying such rabbits.

Owners within thirty days of service of notice to pay cost of destruction.

12. Any one or more of the owners of such private land who have failed to comply with a notice to destroy rabbits as aforesaid, and upon whose land proceedings as mentioned in the last preceding section have been taken shall, within thirty days from service by or by the direction of an Inspector of a notice in writing from an Inspector in the form or to the effect set forth in Schedule B hereto, pay to the person or one of the persons mentioned in such notice as being authorized to receive such payment the amount mentioned in such notice as being the cost, charges and expenses occasioned by the destruction of the rabbits in accordance with the last preceding section hereof, including therein the costs of the service of any notice hereunder; which amount when so paid shall, by the person receiving the same, be forthwith paid into the Public Account and form part of the Consolidated Fund.

If cost not so paid, Inspector to sue for same.

13. If any owner upon whom a notice as mentioned in the last preceding section has been served shall fail to pay the amount mentioned therein within the said period of thirty days, then the Inspector issuing such notice may sue for and recover the same in his own name in any Court of competent jurisdiction, or the same may be recovered as a debt due to the Crown under "The Crown Suits Act, 1881."

If judgment not satisfied within three months, Colonial Secretary to certify amount to Public Trustee.

14. If any judgment recovered by an Inspector under the last preceding section is not satisfied, with costs of suit, within three months thereafter, the Colonial Secretary may forward to the Public Trustee a certificate to that effect, stating the amount due under such judgment.

Thereupon Public Trustee may sell land.

15. Immediately or at any time after the receipt of such notice the Public Trustee may, after giving nine months' notice in writing to all the persons whom he believes to be owners of such private land, or such interest therein as he proposes to sell, cause the private land, for the destruction of the rabbits on which the moneys recovered by the judgment were incurred, or such part thereof as may be necessary, or any interest therein whether freehold or leasehold, to be sold by public auction, unless the amount of such judgment and costs, and all expenses incurred in recovering the same, together with interest at the rate of ten pounds per centum per annum upon the amount of such judgment from the date of such judgment until payment thereof, and any charges which the Public Trustee is entitled to make upon the sale of property, are paid prior to such sale.

Proceeds of sale, how applied.

16. The proceeds of such sale shall be appropriated, first, to the payment of such judgment, interest, costs, and expenses; next, to the payment of any incumbrance on the said property; and the balance, if any, shall be paid into the Public Trust Office, and shall be paid, together with interest thereon, not exceeding four pounds per centum

per annum, by the Public Trustee, upon the order of a Judge of the Supreme Court, which order may be made upon a summons in Chambers to such persons as may become entitled thereto, in the proportions in such order specified.

17. With respect to any such sale the following provisions shall apply:— Provisions applying to sale.

- (1.) The sale shall be by public auction, and the Public Trustee shall have a right to bid for or buy in the property, or place a reserve upon the same, and he may put it up for sale as often as may be required until it be sold:
- (2.) The consideration to be given by the purchaser shall be a sum of money to be paid forthwith or by instalments, as may be fixed by the Public Trustee:
- (3.) The highest bidder at the auction, subject to the rights reserved to the Public Trustee by subsection one hereof, if his bid shall equal or exceed the sum required to pay the amount of judgment and the costs incurred, and if he shall comply with the conditions precedent, if any, fixed by the Public Trustee, shall be the purchaser:
- (4.) The purchaser, upon having the transfer or conveyance executed, shall be entitled to and may recover possession of the property so sold to him as against or from all persons whomsoever.

18. On the purchase-money being fully paid the Public Trustee may execute a transfer, conveyance, assignment, or such other document as the case may require, in the name and on the behalf of the owner whose interest has been sold, adding after his signature and seal of office the words "under 'The Rabbit Nuisance Act, 1882.'"
On purchase-money being paid, Public Trustee may execute transfer of conveyance.

19. No purchaser under any such instrument shall be bound to inquire whether the sale has been properly made under this Act, or be affected by notice either express or implied that there has been any impropriety or irregularity in connection therewith, and notwithstanding any such impropriety or irregularity such sale shall be good, valid, and effectual at law or in equity for all purposes whatsoever.
Purchase not affected by impropriety or irregularity in sale.

20. Any instrument under "The Land Transfer Act, 1870," or under any Act passed in place thereof, executed for the purpose of carrying into effect any such sale, shall be registered by the District Land Registrar of the district in which the land dealt with thereby is situate, without the production of the duplicate certificate or other document of title relating to the private land dealt with by such instrument, if the Public Trustee is unable to produce the same.
Transfers may be registered without production of duplicate certificate.

21. If a notice under the eighth section hereof has been served upon any owner who is not entitled to the occupation for the time being of the lands comprised in such notice, then, unless the person in actual occupation or entitled to actual occupation of such land shall, within fourteen days from the service of such notice, arrange with such owner and to his satisfaction for the destruction of the rabbits on the said land, the said owner shall be deemed as regards such land to have all the powers of an Inspector under section eleven hereof.
If notice to destroy served upon owner not entitled to occupation, he may enter and destroy.

22. Wherever there are more owners than one of any private land, and one of such owners is under this Act in any way compelled to pay the whole cost of destroying the rabbits on such land, he may,
Apportionment of costs between several owners.

subject to the proviso hereto, in any Court of competent jurisdiction, sue for and recover from the other owners of such private land, such proportion of the costs, charges, and expenses incurred by him in or about the destruction of the rabbits on the said land, as is in the opinion of the Court fairly proportionate to the respective interests in such land of the owners parties to such action :

Provided that for the purposes of this section any owner who is entitled to occupy such private land for any period exceeding three years or for a life or lives shall be deemed to be liable for the whole cost of destroying the rabbits on the said land, and that any owner whose right of occupancy will terminate in six months or less shall be entitled to recover the whole of such cost paid by him from the other owners of such land.

As to description of private lands in notices.

23. The description of any private land required to be inserted in any notice hereunder need not define the land referred to therein, but shall be sufficient if it makes such reference to the land, either by name, number of section or allotment, or by boundaries, or otherwise, as to allow of no reasonable doubt as to what land is referred to.

References to private lands to extend to roads bounding such lands.

24. All references to private land herein or in any notice hereunder shall be deemed to extend to the roads bounding such land, and any owner or Inspector or other person having power hereunder to enter upon private land and destroy rabbits thereon shall be deemed to have power to enter upon the roads bounding such land and destroy the rabbits thereon :

Provided always that the power hereby conferred of entering upon roads and destroying the rabbits thereon shall not be deemed to authorize the doing of any act which shall in any way injure such road.

MISCELLANEOUS.

Inspector on notice to ascertain as to abundance of rabbits on any lands.

25. Every Inspector, upon being required by notice in writing from any occupier or owner of land, and served at such Inspector's usual place of abode, shall attend at any place therein appointed, within a reasonable time after the service of such notice, for the purpose of ascertaining whether rabbits abound upon the lands specified by the person who has sent such notice.

Inspector, &c., not deemed a trespasser.

26. No Inspector or person authorized by an Inspector or owner shall be deemed a trespasser, or be liable for any damage occasioned by him in the exercise of the authorities, powers, and discretions vested in him by this Act, or any of them, unless such damage shall have been occasioned by or under the authority of such person otherwise than in the reasonable exercise of the powers conferred upon him by or under this Act.

Act not to authorize destruction of rabbits kept in cages.

27. Nothing in this Act contained shall be construed to render it imperative on any person to destroy any rabbits kept by him in cages or similar enclosures in close confinement, or to authorize the destruction of such rabbits without the consent of the owner thereof.

Governor in Council may declare any animal to be natural enemy of rabbit.

28. The Governor may from time to time, by Order in Council, declare any animal to be a natural enemy of the rabbit, and prohibit the killing or capturing of any such animal without a special permit in that behalf, and may from time to time alter and revoke any such Order in Council.

29. Any person capturing or selling, or disposing of, or killing any animal so declared to be a natural enemy of the rabbit, without a permit signed by an Inspector so to do, or in whose possession or on whose premises any such animal shall be found by any Inspector or by any constable, unless such person shall prove that the animal so killed, sold, or in his possession was lawfully in his possession, or that the same was on his premises without his knowledge or consent, shall be liable to a penalty of not less than five nor more than twenty pounds.

Penalty for killing, &c., any such animal.

30. Any person who shall falsely represent himself to be or shall personate an Inspector or a person authorized by an Inspector under this Act in any manner whatsoever shall be guilty of a misdemeanour, and shall, on conviction, be liable to be imprisoned, with or without hard labour, for any period not exceeding twelve months; and shall, in addition to such imprisonment, be liable to forfeit and pay a penalty of not less than twenty pounds nor more than one hundred pounds.

Penalties for personating Inspector, &c.

31. If any person, not being an Inspector or a person authorized in writing by an Inspector, or an owner acting under the twenty-first section hereof, shall, without the consent of the owner, trespass upon any private land for the apparent purpose of destroying rabbits thereon, he shall be liable to a penalty of not more than ten pounds.

Penalty for unauthorized trespassing upon private lands.

32. Any person who shall wilfully obstruct, hinder, or interrupt, or cause to be obstructed, hindered, or interrupted, any Inspector or any person authorized in writing by an Inspector or any owner in the exercise of any power or authority vested in him by this Act, or shall threaten, assault, or use abusive language to any such Inspector or person or owner whilst in the performance or execution of his duty under this Act, shall, for every such offence, if not otherwise specially provided for, be liable to a penalty not exceeding twenty pounds; and no proceeding for the recovery of such penalty, nor the payment thereof, shall be a bar to any action at law by any of the persons aforesaid for or in respect of any such assault as aforesaid, but every such action may be commenced and proceeded with as if this Act had not been passed, any law or usage to the contrary notwithstanding.

Penalty for wilfully obstructing, &c., any Inspector.

33. Any person who shall wilfully set loose any rabbits, or knowingly and wilfully permit any rabbits to be set loose, in any part of the colony, shall, on conviction, forfeit and pay for each offence a sum not exceeding fifty pounds.

Penalty for wilfully setting rabbits loose.

34. In any proceedings for the recovery of a penalty under the ninth or tenth sections hereof, the onus of proof that he is not liable to any penalty shall lie upon the person against whom the information is laid.

In proceedings for recovery of penalties under sections 9 and 10, onus of proof of exemption upon defendant.

35. In any proceedings for the recovery of money under the thirteenth section hereof, or for the recovery of any penalty hereunder, the jurisdiction of the Court or Justices before whom the proceedings are pending shall not be ousted on the ground that the defence raises any question of title to land.

Jurisdiction of Court or Justices not ousted on ground that defence raises question of title.

36. All fines and penalties made payable by this Act shall form part of the Consolidated Fund.

Fines and penalties to be part of Consolidated Fund.

37. The persons who were Trustees of any Rabbit Trust constituted under "The Rabbit Nuisance Act, 1880," on the repeal of such Act, shall, immediately on the passing of this Act, pay into

Trustees of Rabbit Trusts under Act of 1880 to pay moneys belonging

to them as such into Public Account.

the Public Account, to form part of the Consolidated Fund, all moneys in their possession or under their control as such Trustees; and, failing their making such payment, such moneys may be forthwith recovered from them, or any of them, jointly or severally, as a debt due to the Crown under the provisions of "The Crown Suits Act, 1881."

Trustees of Rabbit Trusts under Act of 1880 to deliver to Inspector property belonging to them as such.

38. All such persons as are referred to in the preceding section shall, immediately upon demand, deliver to any Inspector all property in their possession as such Trustees; and, failing their making such delivery as aforesaid, the property so detained or its value may be forthwith recovered from them, or any of them, jointly or severally, by any one appointed for that purpose by the Governor.

Colonial Treasurer to defray liabilities lawfully incurred by Rabbit Trusts.

39. The Colonial Treasurer shall, out of any moneys voted by Parliament for the suppression of the rabbit nuisance, pay or discharge any liabilities lawfully incurred by Rabbit Trusts constituted under "The Rabbit Nuisance Act, 1880," upon the certificate of the Controller and Auditor-General that they have been so lawfully incurred.

Act to be in operation for three years.

40. This Act shall only be in operation for three years from the first day of October, one thousand eight hundred and eighty-two, and no longer.

Repeal.

41. "The Rabbit Nuisance Act, 1881," is hereby repealed.

Schedules.

SCHEDULES.

SCHEDULE A.

"THE RABBIT NUISANCE ACT, 1882."

Notice to destroy Rabbits.

Sec. 8.

To [name of person or body to whom notice addressed], of [address].

TAKE notice that I, the undersigned, an Inspector under the above Act, pursuant to the provisions of the said Act, hereby require you forthwith to destroy the rabbits upon the following lands [here describe lands].

Dated at _____, this _____ day of _____, 188 .

Signature :
Designation :
Postal address :

N.B.—Your attention is directed to the Ninth, Tenth, and Eleventh Sections of the said Act, printed on the back hereof.

On neglect or failure to comply with this notice, in addition to the penalties prescribed by these sections, the destruction of the rabbits upon your land may be effected by the Government at your expense.

SCHEDULE B.

"THE RABBIT NUISANCE ACT, 1882."

Notice of Moneys payable for Destruction of Rabbits.

Sec. 12.

To [name of person or body to whom notice addressed].

I BEG to give you notice that there is now due and payable by you, in pursuance of the Twelfth Section of the above-mentioned Act, within thirty days from the date hereof, in respect of the cost and expense of the destruction of rabbits upon the following lands [here describe lands], the sum of [here state sum]; and notice is hereby given that the same must be paid to [here state where payable].

Dated at _____, this _____ day of _____, 188 .

Signature :
Designation :
Postal address :