

No. XIV.

An Act to provide for the Abatement of the Rabbit Nuisance. [14th April, 1883.]

RABBIT NUISANCE.

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales 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 of 1883” and it shall come into operation on the first day of May one thousand eight hundred and eighty-three.

Short title.

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

Interpretation.

“ Minister” means the Minister charged with the administration of this Act.

“ Private land ” means any land alienated from the Crown in fee simple or for any less estate or interest whether by Crown grant lease or promise of lease or otherwise however 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.

“ Governor ” means the Governor with the advice of the Executive Council.

“ Crown Land ” means any land for which no Crown grant has been issued or any land dedicated or reserved for Commonage purposes 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 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.

“ Stock owner” means any owner whether jointly or in severalty or any superintendent or person in charge or possession of horses cattle or sheep.

“ Understocked”

Rabbit Nuisance.

“Understocked” shall mean any private lands which shall have no stock upon them or less stock than one sheep to every ten acres of the area thereof or one head of cattle or horses to every fifty acres thereof.

“Inspector” means any person who may be appointed an inspector hereunder.

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

Where reference is made to the giving or service of 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 in a registered letter addressed to his last known place of abode or business in the Colony.
- (c) 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 once in the *Government Gazette* and three times in a newspaper circulating in the sheep district in which the lands affected by such notice are situate and by fixing the notice upon some conspicuous place on the land affected by such notice or on some public road abutting thereon.

Where the name of an owner is unknown to any inspector issuing a notice or suing under this Act the notice may be addressed to the owner as such without mentioning his name and similarly the owner may be sued by the inspector or person authorized and judgment giving against him as such without specifying his name.

3. The Governor may from time to time appoint any person to be an inspector under this Act and all inspectors under this Act may exercise the powers hereby conferred in any part of the Colony.

As to destruction of rabbits on Crown land.

Governor may
appoint inspectors.

4. Any inspector or any person authorized in writing 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 lands.

5. Any inspector or any person so authorized by an inspector may from time to time enter upon any Crown land and also upon the roads bounding or intersecting 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. 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 permanently injure such road.

Power to destroy
rabbits on Crown
land.

As to destruction of rabbits on private land.

Power of entry on
private land.

6. Any inspector or any person authorized as aforesaid 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.

Rabbit Nuisance.

7. 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 such owner or owners forthwith to destroy the rabbits on such land.

Inspector may serve notice on owners to destroy rabbits.

8. If within fourteen days after 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 may be necessary to destroy the rabbits on the land mentioned in such notice 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 fifty pounds.

Penalty for neglect to comply with notice.

9. 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 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 ensure 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.

In addition to penalty inspector may enter upon private land and destroy rabbits.

10. If after the expiration of fourteen days as aforesaid such inspector shall be satisfied that such owner is doing all such acts deeds matters and things as may be necessary to destroy the rabbits on the land mentioned in such notice and is continuing such action then such inspector may from time to time postpone entering upon such land or in the event of his having entered upon such land for the purpose of clearing the same of rabbits he may withdraw from such land upon the owner paying all costs charges and expenses incurred by the inspector up to the time of such withdrawal.

Power to withdraw from lands after entering to clear.

11. Any owner of such private land who fails to comply with a notice to destroy rabbits as aforesaid and in reference to whose land proceedings as mentioned in the ninth section hereof 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 ninth 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 Rabbit Account at the Treasury Provided always that the Minister may in his discretion authorize the remission to the owner of any sum not exceeding three-fourths of such cost charges and expenses.

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

12. 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 or any person authorized in that behalf by the Minister 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.

If cost not so paid inspector to sue for same.

13. If a notice under the seventh 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 enter and destroy.

If notice to destroy served upon owner not entitled to occupation he may enter and destroy.

within

Rabbit Nuisance.

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 lands to have all the powers of an inspector under this Act.

Apportionment of cost between owners.

14. 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 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 of the owners in such land.

As to description of private lands in notices.

15. 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 make 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 land to include bounding and intersecting roads.

16. All references to private land herein or in any notice hereunder shall be deemed to extend to the roads bounding or intersecting 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 or intersecting 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 permanently injure such road.

Expense of destroying to be a first charge upon land.

17. All costs charges and expenses incurred by an inspector or any person authorized in clearing any private land of rabbits under the provisions of this Act shall be a first charge upon such land and shall take precedence of all mortgages or other charges whatsoever upon such land Provided always that a certificate under the hand of the Minister shall be a full discharge of all such costs charges and expenses up to the date of such certificate.

Owners how to be assisted in cost of clearing lands.

18. If the owner of any land shall prove to the satisfaction of the Minister that he has done all things in his power as required by this Act to exterminate the rabbits upon such land and that he is continuing to do all such things and to take all such steps as may be necessary for that purpose in the opinion of the Minister then the Minister (subject to the conditions of regulations as to proof of the cost of such work) shall authorize payment to such owner from time to time of a sum of money not exceeding three-fourths of the total cost incurred by such owner in and about such work in such sums and at such times as the Minister shall think fair and reasonable.

Assessment of Stock, &c.

Assessment of stock expenses.
30 Victoria No. 16
sec. 78.

19. In order to provide a fund for carrying into effect the provisions of this Act and to defray the expenses connected therewith a special fund shall be raised by annual assessment from all stock-owners of two hundred horses or cattle or two hundred horses and cattle and upwards at a rate not exceeding one-penny-half-penny per head for all exceeding that number and from all stock-owners of one thousand or more sheep at a rate not exceeding one farthing per head for all exceeding that number Such assessment shall during the present year be paid by such stock-owners on or before the thirty-first day of August and in every subsequent year on or before the thirty-first day of May to the Colonial Treasurer or to such other person as may be authorized on his behalf And the Colonial Treasurer shall carry such assessments to the credit of a special account (to be called the Rabbit Account) and

Rabbit Nuisance.

and charge such account with all moneys paid under this Act And such assessments shall be an annual preferential charge on all stock liable to assessment into the possession of whomsoever they may pass Provided that any rate of assessment may be reduced or wholly remitted by the Governor should he deem it expedient to declare the same by proclamation.

20. Every person liable to assessment under this Act shall within two months after the passing of this Act and thereafter on or before the first day of January in each year deliver personally or transmit by registered letter to the Clerk of Petty Sessions nearest to the land on which such horses cattle or sheep then are (whether they be travelling or depasturing on the owner's land or otherwise howsoever) as well as the number of acres liable to assessment exceeding ten thousand acres a return of the same accompanied by a declaration made before a Justice of the Peace in the form of Schedule C And any such person failing to make such return shall be liable to a penalty not exceeding twenty pounds and a further penalty of a like amount for every continued failure or neglect after notice by an inspector.

Owners to make any returns and declarations to Clerk of Petty Sessions.
30 Victoria No. 16
sec. 79.

21. If within three months after the passing of this Act and thereafter if on or before the first day of March in any year no return or any insufficient return shall have been made by any stock-owner in respect of any horses cattle or sheep and acreage as aforesaid an inspector in the district in which such horses cattle or sheep are then kept or depastured shall furnish the Clerk of Petty Sessions with an estimated return of the number of horses cattle or sheep belonging to such stock-owner in such district or of the number of horses cattle or sheep by which such return is deficient as the case may be And every such estimated return shall unless such stock-owner shall have appealed therefrom as hereinafter provided be dealt with in all respects and shall be as binding upon such stock-owner as if the same had been duly made by him.

If owner fail to make return inspector to make same.
30 Victoria No. 16
sec. 80.

22. Every Clerk of Petty Sessions upon the receipt of such returns shall calculate the amount of assessment due by such stock-owners and shall in the case of returns duly made by such stock-owners within three months from the passing hereof and thereafter on or before the first day of March in every year transmit to the Colonial Treasurer the Auditor-General and the Chief Inspector of Stock a general return in the form of Schedule D hereto of all the stock-owners making such returns as aforesaid and of the amounts which they have respectively to contribute And such assessment shall be paid on the footing of the general returns so transmitted unless in so far as the same may be affected by any decision on appeal.

Clerk of Petty Sessions to calculate assessment.
30 Victoria No. 16
sec. 81.

23. In respect of returns duly made by stock-owners the Clerk of Petty Sessions shall within three months after the passing of this Act and thereafter not later than the thirty-first day of March in each year and in the case of all other returns immediately on their being made to him give the several stock-owners mentioned in such returns notice by registered letter in the form of Schedule E hereto of the amounts of their respective assessments and of the time and place of payment of the same.

Clerk of Petty Sessions to give owners notice of assessment.
30 Victoria No. 16
sec. 82.

24. Any stock-owner considering himself aggrieved by the amount of his assessment or by the inspector's estimated return so notified to him may appeal therefrom to the Minister on giving notice in writing to that effect to the Clerk of Petty Sessions and to the inspector who made the return within ten days after the date of the receipt of the notice of assessment or estimated return.

Stock-owner may appeal.
30 Victoria No. 16
sec. 83.

25. If no notice of appeal shall have been given within the time so specified as aforesaid or if such appeal shall have been decided against the appellant or if from any cause whatever the stock-owner liable

Mode of recovery of assessment.
30 Victoria No. 16
sec. 84.

Rabbit Nuisance.

liable to assessment shall not within four months after the passing hereof and thereafter on or before the thirtieth day of June in every year pay the same to the Colonial Treasurer or other person authorized in that behalf as aforesaid the Colonial Treasurer shall issue a warrant to the Clerk of Petty Sessions nearest to the residence of such owner directing him and his assistants to levy the amount of such assessment together with an additional sum equal to one-fifth thereof as a penalty by distress and sale of such goods and chattels of such stock-owner as shall be sufficient to pay such assessment and penalty and the costs of such warrant levy and sale.

Owners of unstocked or understocked lands to pay assessment.

26. Where any private land shall be understocked the owner thereof shall make a return as hereinbefore provided and the Minister shall declare the areas of such lands and thereupon the owner of such lands shall pay an assessment in respect of the same as if such lands were stocked with one sheep to every ten acres thereof. Provided that in assessing any understocked land one head of cattle or horse shall be held to be equal to five sheep. Provided also that the assessment on such lands shall be made and the payment thereof enforced in the same manner as hereinbefore provided for the making and enforcing of the same on horses cattle and sheep.

Treasurer to pay moneys authorized by the Act.
45 Victoria No. 19
sec. 45.

27. From the funds standing to the credit of the "Rabbit Account" the Colonial Treasurer shall under warrant of the Governor pay all subsidies salaries expenses and other sums authorized by this Act. And in the event of such Account being inadequate the same shall be paid out of such moneys as may be appropriated by Parliament for the purposes of this Act. But all payments under such special appropriations shall be recouped to the Consolidated Revenue when there is sufficient balance to the credit of the said Rabbit Account.

Miscellaneous.

Inspector on notice to ascertain if rabbits are on any land.

28. Every inspector upon being required by notice in writing from any owner of land served at such inspector's usual place of abode shall attend at any place therein appointed within fourteen days after the service of such notice for the purpose of ascertaining whether rabbits are upon the land specified by the person who has sent such notice.

Inspector neglecting his duty.

29. In case any inspector or person duly authorized by an inspector under this Act shall refuse or wilfully neglect to do and perform any of the duties imposed upon him by this Act he shall upon conviction be liable to a penalty not exceeding ten pounds.

Inspector &c. not deemed a trespasser.

30. 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 discretion 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. Provided always that before any poison is laid on the land of any owner by an inspector or person authorized such inspector or person shall give to the owner of such land seven days notice in writing stating where such poison is to be laid.

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

31. The Governor may from time to time by Proclamation declare any animal to be a natural enemy of the rabbit and prohibit within certain proclaimed districts 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 Proclamation.

Penalty for killing &c. any such animal.

32. 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

Rabbit Nuisance.

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 two nor more than ten pounds.

33. 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.

34. If any person not being an inspector or a person authorized in writing by an inspector or an owner acting under the provisions hereof shall trespass upon any private land for the apparent purpose of destroying rabbits thereupon he shall be liable to a penalty of not more than ten pounds.

Penalty for trespassing upon private lands.

35. Any person who shall wilfully assault obstruct hinder interrupt or mislead or cause to be assaulted obstructed hindered interrupted or misled 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 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.

36. Any person who shall have in his possession any live rabbit or introduce into the Colony from any other Colony or place any rabbit scalps shall on conviction forfeit and pay for each offence a sum not exceeding one hundred pounds or in default of payment be liable to a term of imprisonment not exceeding six months.

Penalty for keeping rabbits.

37. Every person who shall destroy injure alter or remove any notice signed by an inspector or person authorized and placed or exhibited upon any land or who shall destroy injure remove or interfere with any trap snare poison matter or thing used or required for the capture or destruction of rabbits which shall be placed upon any such lands by the owner thereof or by any inspector or person authorized as aforesaid shall be liable to a penalty not exceeding twenty pounds.

Penalty for interfering with notices &c.

38. Every person upon whose land there shall be any rabbits or any signs of rabbits shall immediately give the inspector nearest to such land notice thereof and any person failing to do so shall be liable to a penalty not exceeding twenty pounds.

Owners to give notice of rabbits being on land.

39. Proof that there are on any land burrows showing signs of having been recently used by rabbits or other signs of the presence of rabbits shall be deemed to be proof of the existence of rabbits on such land. And proof that such signs are not being diminished on any land shall be *prima facie* evidence that the owner is neglecting to do all such acts deeds matters and things as are necessary to destroy the rabbits on such land.

Proof of existence of rabbits and of owners' default.

40. All proceedings for the recovery of penalties under this Act shall be heard and determined in a summary way in accordance with the law regulating summary proceedings before Justices and payment of any penalty incurred hereunder may be enforced by distress and sale of the offender's goods and chattels.

In proceedings for recovery of penalties onus of proof of exemption upon defendant.

41. In any proceedings for the recovery of money under the provisions hereof or for the recovery of any penalty hereunder the jurisdiction of the Court or Justices before whom the proceedings are pending

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

Rabbit Nuisance.

pending shall not be ousted on the ground that the defence raises any question of title to land or that the defendant does not reside within the boundaries of the jurisdiction of the Court where the action may be commenced. Provided the land in respect of which the claims arose is situated within the boundaries of the jurisdiction of such Court.

Penalties to be paid
into Rabbit Account.

42. All fines and penalties made payable by this Act shall form part of the Rabbit Account.

Stock and Pasture
Acts repealed so far
as relate to rabbits.

43. The provisions of the "Pasture and Stock Protection Act" and the amendment thereof of 1881 shall immediately on the passing of this Act be repealed so far as the same relate to rabbits.

Appeal.

44. Any person who shall think himself aggrieved by any penalty under this Act imposed upon him or by decision of any Justice under or concerning the provisions of this Act may appeal against such penalty or decision to the Court of Quarter Sessions according to the law in force for the time-being for the general regulation of appeals of such or the like nature.

Regulations.

45. The Governor may make regulations for carrying into effect the objects of this Act and may impose penalties for the breach of any such regulations not exceeding five pounds and such regulations shall have the force of law fourteen days after publication in the *Gazette*.

SCHEDULES.

Schedules.

SCHEDULE A.

"THE RABBIT NUISANCE ACT 1883."

Notice to destroy Rabbits.

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

Sec. 7.

TAKE notice that I the undersigned an inspector under the above 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 eighth ninth 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 1883."

Notice of money payable for destruction of Rabbits.

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

Sec. 11.

I BEG to give you notice that there is now due and payable by you in pursuance of the eleventh section of the abovementioned 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.)

SCHEDULE C.

Rabbit Nuisance.

SCHEDULE C.

"RABBIT NUISANCE ACT 1883."

RETURN of number of Horses Cattle and Sheep by Stock-owners to Clerk of Petty Sessions.

RETURN of all horses cattle and sheep now kept and depastured and the number of acres held by _____ in the Sheep District of _____ and Colony of New South Wales made this _____ day of _____ 18__ to the Clerk of Petty Sessions at _____

Name of Run.	Area in acres.	Name and Address &c. of and of Superintendent or person in charge.	No of Horses.	No. of Cattle.	No. of Sheep.

I _____ do solemnly declare that the above returns are true.
 Declared before me at _____ this _____ day of _____ 188 .
 J.P. (or Commissioner for Affidavits.)
 Owner (or Superintendent.)

SCHEDULE D.

"RABBIT NUISANCE ACT 1883."

General Return of Stock.

YEARLY return to the Colonial Treasurer Sydney by the Clerk of Petty Sessions at _____ of the assessments payable by the several stock-owners in his district made in pursuance of the provisions of the above Act.

Name of Run.	Area in acres.	Name of owners.	Name of Superintendent.	Number of			Amount of Assessment.	Date of Payment at Treasury.
				Horses.	Cattle.	Sheep.		

Dated at _____ this _____ day of _____ 188 .
 Clerk of Petty Sessions.

SCHEDULE E.

"RABBIT NUISANCE ACT 1883."

Notice of Assessment due by Stock-owner.

To _____ 188 .
 THE assessment with which you as the owner of the horses cattle and sheep specified in the Schedule below are assessed under the above Act for the year 188__ amounts to the sum of £ _____ as shown by the Schedule and you are hereby required to pay that amount to _____ on or before the 31st day of May next.

Name of Run.	Area in acres.	Name and address of Owner and of person in charge.	Number of Horses and Cattle.	Number of Sheep.	Rate.	Total on each.

Total number of horses and cattle and amount of assessment.
 Total number of horses and cattle and amount of assessment.

Clerk of Petty Sessions.