

New Zealand.



ANALYSIS.

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1895, No. 32.

Title.

AN ACT to consolidate and amend the Law relating to the Erection and Repair of Dividing and Rabbit-proof Fences.

[18th October, 1895.]

Short Title.

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

Commencement.

1. The Short Title of this Act is "The Fencing Act, 1895"; and it shall come into operation on the first day of January, one thousand eight hundred and ninety-six.

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

Interpretation.

“Alienate” and “alienation” include a limited disposal by lease or license, as well as an absolute disposal by sale or otherwise :

“Crown lands” includes all lands of whatever description vested in the Crown :

“Crown tenant” means an occupier of Crown lands or public reserves, or of Native lands, as provided in paragraph (c) of subsection one of section three, and includes the Wardens of Hundreds, and the trustees, managers, or other persons having the control of commonages or mining reserves ; but does not include any person holding Crown lands on deferred payment, agricultural lease, license with right of purchase, perpetual lease, lease in perpetuity, small grazing-runs, or mining district occupation lease :

“Fence” means a sufficient fence of any of the kinds mentioned in Schedule A separating the lands of different occupiers, and includes all necessary gates, floodgates, culverts, and channels :

“Magistrate” means Stipendiary Magistrate :

“Natives” means aboriginal natives of New Zealand, and include half-castes and their descendants :

“Occupier” includes any person who is in the actual occupation of or entitled as owner to occupy any land alienated from the Crown, or any Native or other land to which this Act applies as hereinafter provided in paragraphs (a) and (b) of subsection one of section three ; and also any person who has in any manner purchased or acquired any such land or any estate or interest therein ; and also any local authority, trustees, or persons in whom the title to or control of any public reserve is vested :

“Owner” includes a tenant in fee-simple, a tenant in tail, a tenant for life, and a tenant for any term of not less than ten years, and the trustee of any owner as herein defined who is under any legal disability, but does not include a mortgagee not in possession :

“Public reserves” means all reserves of Crown or other lands made for any purpose of public use or benefit :

“Rabbit-proof fence” means a fence of any of the kinds mentioned in the second part of Schedule A erected or converted for the purpose of preventing the passage of rabbits :

“Road” or “street” includes any public highway, by-way, crossway, or public place, whether it be a carriage-way, horse-way, or footway :

“To repair” includes to trim, keep, and maintain a live fence, and to clean, deepen, or straighten a river, creek, ditch, or natural or artificial watercourse used as a fence.

3. (1.) This Act shall apply,—

(a.) To all lands owned by Natives under Crown grant, or under any title which has been determined by the Native Land Court or otherwise ; and also

Act to apply to
Native lands.

(b.) To all lands vested in the Public Trustee under "The West Coast Settlement Reserves Act, 1892," or otherwise in trust for Natives; and also

(c.) To all lands held by Natives under their customs or usages, or reserved for their use, the title to which has not been determined, but which are leased for the benefit of those concerned.

(2.) With respect to the lands referred to in paragraph (a) of subsection one of this section, the following provisions shall apply:—

(a.) Where judgment is recovered against the Native owner for any sum in respect of the erection of a fence under this Act, the land shall stand charged with the payment to the judgment creditor of the amount of the judgment, together with interest thereon at the rate of six pounds per centum per annum, on the registration of a certificate in the form or to the effect set forth in Schedule B hereto, which the Court before whom the judgment is recovered shall issue at the request of the creditor:

(b.) Such certificate shall be deemed an instrument within the meaning of "The Land Transfer Act, 1885," and an instrument affecting land within the meaning of "The Deeds Registration Act, 1868," and may be registered accordingly:

(c.) No sale, lease, or other disposition of the land affected by any such charge shall be made or shall have any validity until the charge is satisfied, and a discharge thereof is registered in like manner as in the case of a mortgage.

(3.) For the purposes of this Act, the Public Trustee shall be deemed to be the owner of all lands vested in him as aforesaid: Provided that he shall only be liable under this Act in his representative capacity, and to the extent of the funds from time to time available.

4. This Act shall not apply to unalienated Crown lands, nor to public reserves not vested in any local authority, trustees, or persons; nor shall the Crown, the Governor, any Land Board, nor any public officer having the administration, management, or control of Crown lands, or public reserves as aforesaid, be liable under this Act to make any contribution towards the erection or repair of any fence.

5. (1.) Where any fence is erected under the provisions of this Act dividing any land held by any person as Crown tenant from any contiguous land, it shall be at the option of such Crown tenant, instead of paying any proportion of the cost of erecting such fence, to pay to the person who erected such fence, or other person entitled thereto, interest on the said proportion at the rate of ten per centum per annum during such Crown tenant's term of occupation.

(2.) But such Crown tenant shall be liable to pay half the cost of repairs to such fence during the said term.

6. The Land Board, under "The Land Act, 1892," may declare a rabbit-proof fence to be a substantial improvement of a permanent character within the meaning of that Act.

Act not to apply to unalienated Crown lands.

Crown tenant may pay interest on half-cost of erection of fence.

Land Board may declare rabbit-fence an improvement.

ERECTION OF FENCES.

7. A fence of any of the kinds mentioned in Schedule A hereto is a sufficient fence within the meaning of this Act.

What deemed a sufficient fence.

8. Any Borough Council or Town Board may prohibit the erection of any fence composed wholly or partly of barbed wires within the limits of the borough or town district, or within such portions thereof respectively as are provided by any by-law from time to time made in that behalf.

Barbed-wire fence may be prohibited in towns.

9. Where a sufficient fence has been erected within the meaning of any Act hereby repealed, such fence need not be made a sufficient fence within the meaning of this Act until the erection of a new fence.

Existing fences preserved.

10. (1.) Subject to the provisions of this Act, the occupiers of contiguous lands not divided by a sufficient fence are liable to join in or contribute in equal proportions to the erection of a fence between such lands, notwithstanding that such fence may not extend along the whole boundary-line.

Adjoining occupiers to share cost of fencing.

(2.) But no occupier shall be liable to contribute to any fence which is not, as far as practicable, continuous throughout its length.

(3.) The erection of a fence includes the conversion of a non-rabbit-proof fence into a rabbit-proof fence, as described in section three of Part (2) of Schedule A of this Act.

11. (1.) Any person desiring to compel any other person to contribute to the erection of a fence under this Act must serve on him a notice to fence.

Notice to fence to be given.

(2.) Such notice shall be in the form or to the effect numbered one in the Schedule C hereto, and shall specify the boundary to be fenced, and the kind of fence proposed to be erected.

(3.) If any person erects a fence without serving notice as aforesaid, the occupier of the contiguous land shall not be liable to pay any portion of the cost of erecting such fence, but shall not thereby be relieved from liability to pay half the cost of repairs.

12. (1.) If the receiver of a notice to fence objects to any of the proposals therein contained, he may, within twenty-one days after the service of such notice, serve on the giver a cross notice signifying such objection and making counter proposals to fence.

Objections to proposed fence.

(2.) Such cross notice shall be in the form or to the effect numbered two in Schedule C hereto.

(3.) If he fails to serve such cross notice within the said period of twenty-one days he shall be deemed to have agreed to the proposals contained in the notice served on him.

13. If notices to fence have been duly served by both parties, and the proposals therein contained do not correspond, or if a notice and cross notice have been served, then (unless within twenty-one days after the service of the last of the said notices the parties can agree) the questions in difference shall be determined by a Magistrate in the manner hereinafter provided.

Provision in cases where fencing notices vary.

14. If the questions in difference relate to the erection of a rabbit-proof fence or the conversion of a non-rabbit-proof fence into a rabbit-proof fence, and the Magistrate decides that the receiver of the notice will not derive adequate benefit from such erection or

As to cost of rabbit-proof fence when in dispute.

conversion, and therefore should not be required to contribute the half-cost thereof, then—

- (1.) The giver of the notice may at his own cost erect or convert the fence, and may at any time remove the wire-netting affixed by him for the purpose of such conversion, and at all times deal with such wire-netting as his own property ;
- (2.) The receiver of the notice shall be liable to contribute a sum equal to the half-cost of erecting a sufficient non-rabbit-proof fence (unless one already exists), together with such additional sum (if any) as the Magistrate considers equitable, having regard to the benefit received from the rabbit-proof fence ;
- (3.) The receiver of the notice shall also be liable to bear the half-cost of repairing such fence as a rabbit-proof fence until the wire netting is removed as aforesaid.

As to erection of fences not in Schedule A.

15. If any person shall desire to erect a dividing-fence of a description different from any fence mentioned in Schedule A hereto, he shall give notice as hereinbefore provided, and if the person served with such notice shall not within twenty-one days of the service of such notice object in writing to the description of fence proposed to be erected, then the person giving such notice may proceed to erect such fence accordingly, and such fence shall be deemed to be a sufficient fence within the meaning of this Act; and in case of objection being made the questions in difference shall be determined by the Magistrate in manner hereinafter provided.

If default made by one party, other may fence and recover.

16. If either party neglects or fails for the space of twenty-one days to commence, or, having so commenced, neglects or fails for the space of fourteen days to continue, to erect or convert such fence, the other party may thereupon, or at any time within three months thereafter, proceed to make or complete the fence, and, at any time thereafter, recover from the defaulting party such party's proportion of the cost thereof.

Succeeding occupier liable for contribution.

17. If any person becomes the occupier of any land separated from any contiguous land by a fence made by the occupier of such contiguous land, such person is subject to the same liabilities in respect of such fence as his predecessor was subject to when he relinquished occupation.

Where adjoining lands are Crown lands or Native lands.

18. (1.) When a fence is erected on any land, and the lands contiguous thereto are at the time of such erection excepted from this Act, or any Act hereby repealed, but subsequently become subject to this Act, then the occupier thereafter of such contiguous lands shall, within one month after demand upon him by written notice given, pay to the person who erected the fence a duly proportionate share of its then value, and shall, also be liable to bear half the cost of repairing the fence so long as he continues to be such occupier.

(2.) The amount of such proportionate share shall in case of dispute be determined by a Magistrate in manner hereinafter provided :

Provided that, if such occupier holds under a lease having a less currency than five years, he shall only be liable to contribute as set forth in section five :

Provided further that, upon the expiry or earlier determination of such lease, the person who becomes the occupier shall be liable as set forth in subsection one of this section.

19. (1.) Where the land or any part thereof on which any fence is to be erected is covered with standing bush, the person erecting such fence shall be entitled to fell and clear the bush for a width not exceeding thirty-three feet on each side along the entire length of such fence; and the cost of such clearing shall be added to the cost of erection, and be apportioned accordingly: Provided that in case of dispute such width shall be determined by the Magistrate in manner as hereinafter provided.

Bush may be cleared along line of fence.

(2.) But nothing in this section contained shall empower any person to fell any ornamental plantation, or any belt or patch of standing bush preserved for shelter, and which is not more than five chains in width.

20. (1.) When a river, creek, ditch, natural or artificial water-course, or rocky or impracticable land is on the boundary of contiguous lands, the occupiers of such lands may agree upon a line of fence on either side of such boundary, and if they cannot agree, the line of the fence shall be determined by a Magistrate in manner hereinafter provided.

Where river, &c., natural boundary, power to agree on line of fence.

(2.) The Magistrate may appoint one or more persons to inspect the proposed line of fencing, and shall determine whether any fence is necessary, and, if so, what line is to be adopted; and whether any, and, if so, what compensation in the shape of an annual payment or otherwise is to be made to either of the occupiers in consideration of loss of occupation of land.

(3.) The reasonable costs of such inspection, as fixed by the Magistrate, shall be costs in the cause.

(4.) The occupation of lands on either side of such line of fence shall not be deemed adverse possession, and shall not affect the title to or possession of any such lands, save for the purposes of this Act.

21. (1.) The occupier of any land in making a ditch-and-bank fence may make the ditch on the contiguous land (Crown lands inclusive), and use the soil taken therefrom towards making the bank, or he may make the ditch on his own land and place the bank on such contiguous land.

Half of dividing-fence may be on adjoining land.

(2.) But no ditch or bank shall be made upon any such contiguous land so as to disturb or injure a live fence or hedge without the previous written consent of the occupier of such land.

22. Where a fence is made of posts and rails, or wire, or palings, the posts of such fence shall be placed on the boundary-line, or as near thereto as is practicable.

Posts to be on boundary-line.

23. (1.) If the occupier of any land bounded by a road has erected a fence on the boundary of his land and such road, and any other person adopts any means by which such fence is rendered of beneficial use to himself, and avails himself of such fence, such person, so long as he continues to avail himself thereof, is liable to pay to the person who erected such fence, or to the occupier of the land whereon the same is erected, interest on half the then value of such fence, at the rate of ten pounds per centum per annum, and also to bear half the cost of repairs.

Person using fence on further side of road liable to pay interest on half-cost.

(2.) The person so availing himself of any such fence shall have all the powers and rights conferred on an occupier under sections thirty, thirty-one, and thirty-two of this Act.

Gorse not to be planted without consent of neighbours.

24. (1.) No person shall, whether for the purpose of making a live fence or otherwise, plant or sow gorse or trees—

(a.) Upon or alongside any boundary-line or fence without the previous written consent of the occupiers of the contiguous lands; nor

(b.) Upon or alongside any boundary-line or fence bounding or abutting upon any Crown lands, public reserve, or railway, without the previous written consent of the proper authority having the management or control thereof.

(2.) No person shall under any circumstances, or for any purpose, plant or sow sweetbriar, bramble, or blackberry, upon or alongside any such boundary-line or fence as aforesaid.

(3.) Every person who commits a breach of any of the provisions of this section is liable, for every such offence, to a penalty not exceeding twenty pounds.

(4.) Irrespective of any such penalty, the occupier or proper authority, as aforesaid, may enter on the land and cut down, eradicate, and destroy all gorse or trees, sweet-briar, bramble, or blackberry, planted or sown in breach of this section, and may recover the cost of so doing from the person who planted or sowed the same.

Power to construct a fence on road to protect live fence.

25. With the consent in writing of the local authority having the control of any road, and subject to such terms and conditions as such local authority in writing prescribes, the occupier of any land bounded by such road may erect on such road a fence for the purpose of protecting, until it becomes fully grown, any live fence planted by him on the boundary of his land and such road: Provided—

(1.) That no part of the fence erected on the road is distant more than five feet from the nearest point on the boundary-line; and also

(2.) That such fence does not reduce to less than twenty-four feet the width of the road available for traffic; and also

(3.) That the occupier removes the fence whenever in the opinion of the local authority the exigencies of traffic require its removal or the live fence no longer needs protection.

Swing-gates across roads.

26. (1.) Subject to the provisions of the "The Public Works Act, 1894," relating to gates across roads, the local authority may by writing permit any person to erect a swing-gate or rabbit-proof gate, properly hung, and provided with an efficient fastening capable of being opened by a person on horseback, across any road or bridge, and such permission shall remain in force during the pleasure of such local authority.

(2.) Every person who damages or leaves open any swing-gate erected on a road or bridge, or in any rabbit-proof fence, or who after opening such gate does not close it, is liable to a penalty not exceeding five pounds for every such offence, and is also liable to the person who erected such gate for all such damage as aforesaid.

(3.) The provisions of the said Act relating to gates across roads shall for the purposes of this Act apply also to gates across bridges.

27. (1.) Where any person has erected any fence upon any Crown lands, the Commissioner of Crown Lands of the district may direct such person to make such and so many gates, and at such places in the fence, as he deems necessary for the public convenience.

Fences on Crown lands to be provided with gates or openings, &c.

(2.) If such person does not comply with such direction within one month after the receipt thereof, he is liable to a penalty not exceeding twenty pounds, and the Commissioner may forthwith have such gates made at the expense of such person.

(3.) Any person who leaves such gate open is liable to a penalty not exceeding five pounds.

28. Every person who wilfully destroys or breaks down, or who injures or moves, any rabbit-proof fence or any portion thereof, whether set up on Crown lands or private lands, is liable to a penalty not exceeding one hundred pounds, or to imprisonment for any period not exceeding six months.

Penalty for damaging or destroying fences.

29. In case of any piece of land being taken under the provisions of "The Public Works Act, 1894," out of land fenced with a rabbit-proof fence, the fencing to be erected in terms of the twenty-seventh section of that Act shall be rabbit-proof, and shall be so kept during the construction of the work.

Land taken under Public Works Act, how to be fenced.

REPAIRS OF FENCES.

30. When any fence is out of repair, the occupiers of the contiguous lands shall bear the cost of repairing such fence in equal proportions.

Adjoining occupiers to keep fences in repair.

31. The occupier desiring to repair any fence may serve a notice upon the contiguous occupier requiring him to assist in repairing such fence, and, if such occupier refuses or neglects so to do for the space of one week after the service of such notice, such first-mentioned occupier may himself do the work and recover half the cost thereof from the occupier making default.

Procedure to compel contribution to the repair of fences.

32. If any fence is damaged or destroyed by sudden accident, or other cause, and requires immediate repair, the occupier of land on either side may repair the same without any notice, and, subject to the provisions of the next succeeding section, may recover half the cost thereof from the contiguous occupier.

Contribution where fence destroyed by accident.

33. If by reason of the neglect or fault of any occupier any fence is damaged or destroyed, whether by stock, or fire, or the falling of any tree, or otherwise howsoever, such occupier shall be liable for the whole cost of repairing the fence so damaged or destroyed.

Exception where accident results from neglect.

34. Nothing herein contained shall be deemed to take away or interfere with the right of any person to sue for and recover compensation for any damage to any fence occasioned by the reckless or negligent use of fire, or otherwise howsoever.

Liability for reckless use of fire.

PROCEDURE.

35. A Magistrate shall have jurisdiction to hear and determine all questions and disputes arising under this Act in so far as relates to,—

Jurisdiction of Magistrates in matters arising under Act.

(1.) The erection and repair of fences ;

(2.) The kind of fence to be erected (the sowing or planting of a live fence or trees either at time of erection of fence or at

- any time thereafter, and the question of shelter, to be a consideration in deciding such class of fence);
- (3.) The width of the bush to be felled and cleared;
 - (4.) The persons by whom any such fence is to be erected or repaired;
 - (5.) The conversion of a non-rabbit-proof fence into a rabbit-proof fence;
 - (6.) The line of fence to be adopted, and the amount of compensation (if any) to be paid for loss of occupation of land;
 - (7.) The date on which, the time within which, and the manner in which any fence is to be erected or repaired;
 - (8.) The removal of fences that are not erected on the proper boundary;
 - (9.) The entry on contiguous land for the purpose of erecting or repairing a fence;
 - (10.) The reasonable and proper cost of erecting, converting, or repairing any fence, and the persons by whom and the proportions in which such cost is to be borne, due regard being had in the case of a rabbit-proof fence to the extent of the benefit received therefrom;
 - (11.) Any question or dispute which by this Act is to be determined by the Magistrate;
 - (12.) The costs of the proceedings, and the parties by whom and to whom such costs are to be paid.

Proceedings to be by summons.

36. (1.) All proceedings before the Magistrate in respect of any of the matters mentioned in the last-preceding section shall be by summons in the prescribed form, and such proceedings shall be conducted and all orders thereon by the Magistrate may be made, enforced, and acted upon in like manner as in the case of summary proceedings under "The Justices of the Peace Act, 1882."

"The Magistrates' Courts Act, 1893," to apply.

(2.) In all such proceedings the provisions of "The Magistrates' Courts Act, 1893," relating to the joinder, striking-out, or substitution of parties shall apply.

Magistrate to have jurisdiction notwithstanding title involved.

37. A Magistrate shall have jurisdiction to hear and decide any claim arising under this Act whatever its amount, and notwithstanding that title to land may be involved:

Moneys recoverable in any Court of competent jurisdiction.

38. Subject to any order made by a Magistrate under the powers by this Act conferred upon him, all moneys recoverable under this Act may be sued for and recovered in any Court of competent jurisdiction.

How notices may be served.

39. (1.) Any notice under this Act to be served on any person may be served,—

- (a.) Either personally or by leaving the same at or posting the same in a registered letter addressed to such person's last known place of abode or business in New Zealand; or
- (b.) If such person is unknown, or after due inquiry cannot be found, or is absent from the colony, then by similarly serving the notice upon his known agent or attorney; or
- (c.) If there is no known agent or attorney in the colony, or such agent or attorney cannot after due inquiry be found, then by publishing a copy of such notice in a newspaper circulating in the neighbourhood of the land to which

the notice relates, and affixing a copy of the notice upon a conspicuous part of such land, or on some public road adjacent thereto.

(2.) It shall not be necessary to prove the actual receipt of such notice by the person to whom it is addressed.

MISCELLANEOUS.

40. (1.) In every case where the half-cost of erecting or repairing a fence is payable under this Act, the amount so payable—

Maximum price payable in respect of half cost of fence.

(a.) Shall be a reasonable and proper sum, to be fixed if necessary by the Magistrate; and

(b.) Shall not exceed the actual half-cost, including interest on outlay, and reasonable remuneration for the superintendence and labour of the occupier when he is personally engaged on the work.

(2.) The maximum price payable under this Act in respect of the half-cost of erecting a fence shall not exceed,—

(a.) In the case of a fence of the kind numbered three in Schedule A, erected in a borough, thirty-five shillings per chain;

(b.) In the case of any other non-rabbit-proof fence, twenty shillings per chain, exclusive of half the reasonable and proper cost of felling and clearing bush along the line of such fence;

(c.) In the case of a rabbit-proof fence, or the conversion of a non-rabbit-proof fence into a rabbit-proof fence, such sum as is agreed upon, or as the Magistrate fixes as a reasonable and proper one, due regard being had to the considerations referred to in section fourteen hereof.

41. (1.) Any occupier erecting or repairing a fence under this Act, his agents and workmen, may, if the access thereto over his own land is more difficult, inconvenient, or expensive than over the contiguous land, enter, with or without horses, cattle, and carts, at all reasonable times upon any portion of such contiguous land, and do thereon such things as are reasonably required in order to erect or repair such fence:

Persons constructing fences may obtain order to enter on contiguous lands.

Provided that he first obtains from the Magistrate, on summons, an order (which the Magistrate is hereby empowered to grant) authorising such entry.

(2.) If the owner or occupier of such contiguous land, by himself, his agents, or servants, obstructs such entry or the erection or repair as aforesaid of such fence, then, in addition to any other penalty to which he may be liable, he shall be liable to pay the entire cost of the erection or repair of such fence.

Penalty for obstructing.

42. (1.) With respect to every such order, the following provisions shall apply:—

Provisions subject to which such order may be granted.

(a.) The right thereby conferred shall be exercised with as little damage as possible to the land entered upon; and also

(b.) Nothing in such order or this Act contained shall authorise the entry, for the purpose aforesaid, upon any land in crop, or any garden, orchard, plantation, shrubbery, or pleasure-ground, without the consent of the owner thereof; nor,

without the like consent, shall authorise any person to cut down, lop, or injure any tree or shrub.

Compensation for wilful damage.

(2.) Every owner or occupier of any land who suffers any loss or damage by any act or thing wilfully done by any person, contrary to any of the provisions of this or the last-preceding section, shall be entitled to recover compensation for the same.

Act not to interfere with agreements.

43. Nothing in this Act contained shall be deemed or taken to affect any covenant, contract, or agreement made between landlord and tenant, or between occupiers of contiguous land, or between any other persons whomsoever relative to the cost of erecting or repairing fences.

Power of landlord to come in and defend proceedings against his tenant under this Act.

44. Any person may come in and defend any proceeding under this Act against any tenant of such person in consequence of which such person may ultimately incur any liability, and any defence which the person originally proceeded against might set up shall be available to the person so coming in to defend.

Governor in Council may make regulations.

45. The Governor in Council may from time to time make regulations prescribing, in all cases not herein specially provided for, the practice and forms of all proceedings before the Magistrate under this Act.

Repeals.

46. The several Acts and enactments and the Provincial Ordinance enumerated in the Schedule D hereto are hereby repealed: Provided that—

Saving.

(1.) Proceedings pending under the repealed Acts at the time of the commencement of this Act may be continued and completed under those Acts:

(2.) Notices lawfully given, and acts and things lawfully done under the repealed Acts shall be deemed to have been given and done under this Act, and shall enure for all the purposes of this Act.

Schedules.

SCHEDULES.

SCHEDULE A.

(1.) DESCRIPTION OF SUFFICIENT NON-RABBIT-PROOF FENCE.

1. A post-and-rail fence, at least 3ft. 9in. in height, of substantial material, firmly erected, with not less than four rails, the space between the two bottom rails, and the bottom rail and the ground, not to exceed 5in., and the posts not more than 9ft. asunder.

2. A batten-and-wire fence, to be at least 3ft. 9in. in height, of substantial material, firmly erected, with one or more wires; the wires to be not lighter than No. 8 in steel, or black or galvanised iron; the battens to be either driven into the ground and securely stapled, or intertwined in wires in an upright position, and to be not more than 3in. apart.

3. Any paling fence, at least 3ft. 9in. high, with posts and two rails, and having split or sawn timber placed perpendicularly, and well nailed to both rails, there being not more than 4in. of opening between each perpendicular piece of timber.

4. A substantial wire fence, having not less than seven wires tightly stretched, or six wires with a top rail, or barbed wire, with or without battens or lacing affixed to the wires between such posts; posts of durable wood or iron, well and substantially erected, the posts or standards to be not more than 9ft. apart, top wire not to be less than 3ft. 9in. from the surface of the ground; and the wires to be not lighter than No. 8 in steel, or black or galvanised iron. The space between each of the three bottom wires, or the bottom wire and the ground, not to exceed 5in.

5. A substantial wire fence, having not less than seven wires tightly stretched, or six wires with a top rail or barbed wire, with battens not more than 6ft. apart, the wires being stapled or let through such battens, which shall be of durable wood or iron, well and substantially erected; the posts or standards to be not less in number than three to the chain; the top wire not to be less than 3ft. 9in. from the surface of the ground, and the wires to be not lighter than No. 8 in steel, or black or galvanised iron. The space between each of the three bottom wires, or the bottom wire and the ground, not to exceed 5in.

6. A stone wall, well and substantially built, not less than 4ft. in height, and not less than 2ft. 6in. in width at base.

7. A close and sufficient live fence.

8. A combination of the above kind of fences, at least 3ft. 9in. in height.

9. Any other description of fence (including in the expression "fence" any natural or artificial watercourse) mutually agreed upon in writing by the persons interested.

(2.) DESCRIPTION OF SUFFICIENT RABBIT-PROOF FENCE.

1. A substantial fence, having split or sawn timber placed perpendicularly thereon to a height of not less than 3ft. from the surface of the ground, and sunken therein not less than 6in. from the surface, and well fixed, there being not more than 1in. of opening between each perpendicular piece of timber.

2. A substantial fence at least 3ft. 9in. in height, posts or iron standards not more than 9ft. apart, and with at least two galvanised iron or steel wires not lighter than No. 8, and one barb wire on top, to which shall be attached galvanised-wire netting firmly affixed to wires, and securely fastened to the ground, or sunken therein not less than 6in., such wire netting to be not less than a total of 42in. wide, 16 gauge, and not larger than 1½in. mesh.

3. Converting any fence into a rabbit-proof fence by attaching thereto galvanised wire-netting firmly affixed to wires, and securely fastened to the ground, or sunken therein not less than 6in.; such wire-netting to be not less than a total of 42in. wide, 16 gauge, and not larger than 1½in. mesh.

Provided that in the case of existing fences on which netting as above described could not be stretched, then netting of a less width may be affixed.

SCHEDULE B.

Magistrate's Court
District of
[or as the case may be.]

A.B. [and description], having this day recovered judgment against C.D. [and description], for £ under "The Fencing Act, 1895," the under-mentioned lands stand charged with the payment to the said A.B. of the amount of the said judgment, together with interest at the rate of £6 per cent. per annum, from the date hereof until payment.

Description of lands affected:

Dated this day of , 189 .

(L.S.)

Magistrate
[or Judge, as the case may be].

SCHEDULE C.

FORM 1.—NOTICE TO MAKE FENCE.

To C.D., occupier [or owner, or lessee, or agent, as the case may be] of
[describing contiguous land].

TAKE NOTICE that I desire that a fence between [describing the lands] be made immediately [or on or before the day of , 18], and propose that such fence shall be a [Describe the fence, identifying it by reference to Schedule A].

Dated the day of , 18 .

A.B.,
Occupier [or owner, or lessee, or agent] of, &c.

FORM 2.—CROSS NOTICE.

To A.B. [occupier, &c.] of [*describing contiguous land*].

TAKE NOTICE that I object to your notice to fence, dated the _____ day of _____, 18____, in so far as it does not correspond with the proposal which I now make, to wit, that a fence between [*describing the lands*] be made immediately [or on or before the _____ day of _____, 18____], and that the fence shall be [*Describe the fence, identifying it by reference to Schedule A*].

Dated the _____ day of _____, 18____.

C.D.,
Occupier, &c.

SCHEDULE D.

ACTS AND PROVINCIAL ORDINANCE REPEALED.

Acts of the General Assembly.

1881, No. 28.—The Fencing Act, 1881.

1882, No. 64.—The Fencing Act 1881 Amendment Act, 1882.

1888, No. 27.—The Fencing Act 1881 Amendment Act, 1888.

1890, No. 17.—The Rabbit Nuisance Act, 1890. *In part, namely*, the definition in section two of "Rabbit-proof fence."

1891, No. 43.—The Rabbit Nuisance Act 1890 Amendment Act, 1891. *In part, namely*, section two.

1893, No. 30.—The Fencing Act 1881 Amendment Act, 1893.

Provincial Ordinance of Auckland.

Sess. XXIX., No. 24.—The Fencing Acts Suspension Act, 1874.