

Hon. Mr. McKenzie.

NOXIOUS WEEDS.

ANALYSIS.

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| Title.
1. Short Title. Commencement.
2. Interpretation.
3. Local authorities to administer Act and appoint Inspectors. Except as to certain Native lands.
4. Governor may declare other plants or seeds to be noxious weeds or seeds.
5. Dates for clearing of weeds.
6. Occupier to give notice if his land is infected.
7. Work required in trimming hedges and clearing weeds.
8. No person to sell hay, chaff, straw, or seeds infected with seeds of weeds, or sow seeds so infected.
9. Threshing - machines to be thoroughly cleansed.
10. Inspector may enter upon land to ascertain if weeds exist.
11. Notice to be served on occupier of infected land.
12. Local authority may do work at occupier's expense. | 13. Manner in which notices are to be served.
14. Proportion of cost of clearing to be borne by owner.
15. Manner in which expenses may be recovered by local authority from occupier.
16. Manner in which expenses may be recovered by local authorities for clearing on land of unknown owner.
17. As to Native lands not individualised.
18. Public reserves and Crown lands to be cleared by local authority, and proportion of cost refunded.
19. Local authorities may contribute towards cost of clearing.
20. If local authority fails to administer Act, Minister may act, and charge cost to local authority.
21. Hindering or obstructing an Inspector.
22. Penalties for infringing Act.
23. Penalties recoverable before two Justices of the Peace or Stipendiary Magistrate.
24. Penalties recovered to be paid to fund of authority prosecuting.
Schedules. |
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A BILL INTITULED

AN ACT to prevent the Spread of Noxious Weeds, and to enforce the Trimming of Hedges. Title.

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

1. The Short Title of this Act is "The Noxious Weeds Act, 1894." It shall come into operation on the first day of January, one thousand eight hundred and ninety-five. Short Title.
Commencement.
2. In this Act, if not inconsistent with the context,— Interpretation.
"Clear" means cutting down and keeping cut down or grubbing or pulling up the stem or root of any noxious weed so as to prevent any part thereof flowering:
"Infected land" means any land on which any noxious weed or weeds as defined by this Act are growing:
"Inspector" means any Inspector appointed under this Act:
- No. 64—1.

“Local authority” means a Borough Council, Town Board, or Road Board within the limits of their respective jurisdiction, and in all outlying districts of counties means the County Council; and in all counties where “The Counties Act, 1886,” is not in operation, and in all parts of the colony outside of any borough or county, means the Minister of Agriculture : 5

“Minister” means the Minister of Agriculture or such other Member of the Executive Council for the time being acting for him in the administration of this Act : 10

“Occupier” includes the owner of any unoccupied land :

“Noxious weeds” means all the plants mentioned in Schedule A, and any others which the Governor may from time to time declare to be noxious weeds for the purposes of this Act : 15

“Noxious seeds” means the seeds of the plants mentioned in Schedule B, and of any other plants which the Governor may from time to time declare to be noxious seeds for the purposes of this Act.

Local authorities to administer Act and appoint Inspectors. Except as to certain Native lands.

3. It shall be the duty of all local authorities to administer this Act, and to appoint from time to time Inspectors for such purpose. Where Native lands are outside the jurisdiction of any local authority, the Minister shall administer this Act, and appoint the Inspectors. 20

Governor may declare other plants or seeds to be noxious weeds or seeds.

4. The Governor from time to time may, by Proclamation, declare any plants other than those mentioned in Schedule A to be noxious weeds under this Act, and similarly may declare the seeds of other plants than those mentioned in Schedule B to be noxious seeds under this Act. 25

Dates for clearing of weeds.

5. The Governor may, from time to time, by Proclamation, fix the dates between which any or all of the plants mentioned in Schedule A, or which may hereafter be proclaimed, are to be cleared. Any local authority may, if they think fit, recommend the Governor to fix special dates for the district under their jurisdiction, or for any particular part thereof, and the Governor may vary the dates in accordance with such recommendation if it seems desirable to do so. 30

Occupier to give notice if his land is infected.

6. The occupier of any land on which the plants mentioned in Schedule A are growing shall, between the first and thirtieth days of November in each year, furnish a return thereof, and of all live fences, to the local authority, as per Schedule C, stating the estimated area of such infected land, the nature of the plants upon such land, and the kind of plants composing the fences; and every occupier who refuses or neglects to make such a return shall be liable to a penalty as hereinafter provided. 35

Work required in trimming hedges and clearing weeds.

7. Every occupier of land as aforesaid shall in every year, on or before the date specified in the Proclamation, take sufficient steps to carry out the work required as following :— 40

In respect of hedges or live fences, to trim or cut and burn all refuse therefrom; but, where it can be shown that such trimming or cutting would act injuriously on any particular fence, the local authority may extend the period within which such fence shall be cut or trimmed, but in 50

no case shall such extension be granted for two consecutive years :

In respect of stray briar, gorse, broom, and blackberry, to clear such at least one half-chain inside from every boundary-fence or boundary-line, and one half-chain back from every dividing-fence or watercourse.

In addition to keeping the above portion clear, it shall be compulsory on every occupier to clear a like amount in every succeeding year, and so to continue till the whole is cleared; but, where it shall be shown to the satisfaction of the local authority that this provision would press unduly on any individual occupier, the said local authority may in any year reduce the width to be cleared back from any fences and watercourses, but in no instance shall such reduction exceed one quarter of a chain.

In respect to other noxious weeds, the occupier shall take efficient measures to grub out or destroy such to the satisfaction of the local authority.

8. Every person who knowingly sells or offers for sale any hay, straw, chaff, grass or other seeds, or grain for seed purposes, in or amongst which there shall be contained the seed of thistles or the seeds or spores of other plants mentioned in Schedule B, or which may be hereafter proclaimed under this Act, is liable to the penalty hereinafter provided.

No person to sell hay, chaff, straw, or seeds infected with seeds of weeds, or sow seeds so infected.

In all legal proceedings taken against any person for any breach of this section, the onus of proving that such person did not know that such hay, straw, chaff, or grain, or grass-seed contained the seed of thistles or other noxious seeds shall rest upon the defendant, who shall in all such proceedings be competent but not compellable to give evidence.

9. Every person owning a combine threshing-machine, and every person in charge thereof, who shall fail immediately after threshing at each farm, and before removing such machine or any part thereof from the said farm, to thoroughly clean out every portion of the said machine, shall be liable to the penalty hereinafter provided.

Threshing-machines to be thoroughly cleansed.

10. An Inspector, or any person authorised by an Inspector by writing under his hand in that behalf, without notice may enter upon any land, whether enclosed or not, at any reasonable hour in the day-time, for the purpose of ascertaining if any noxious weeds are growing thereon; and no such Inspector or person shall be deemed a trespasser by reason of such entry, or be liable for any damage thereby occasioned, unless the same was thereby occasioned by such Inspector or person wilfully and without necessity.

Inspector may enter upon land to ascertain if weeds exist.

11. If any noxious weeds shall be found growing upon any land, the Inspector shall cause a notice in the form of Schedule D, or to the like effect, to be served upon the occupier thereof.

Notice to be served on occupier of infected land.

12. If, within the time limited in that behalf in any notice as aforesaid, the occupier of any land shall fail to take steps or neglect to continue in his efforts to the satisfaction of the Inspector for clearing such noxious weeds, such Inspector shall immediately report the fact to the local authority, who may authorise the Inspector or any person in writing to enter upon the said land and to use all such

Local authority may do work at occupier's expense.

lawful means as he may deem necessary for the clearing such noxious weeds at the expense of the occupier; but nothing herein contained shall exempt the said occupier from any penalty he may have incurred by reason of his failure or neglect as aforesaid.

Manner in which notices are to be served.

13. Where by this Act any notice is required or authorised to be given by any local authority, Inspector, or other person, the same may be given either by delivering the same personally, or by leaving the same at or posting the same addressed to the usual or last known place of abode in the colony of the person to whom the same is addressed.

Proportion of cost of clearing to be borne by owner.

14. Where it can be shown that a tenant has the right of five years' occupancy of land, after the clearing of a pest on such land, he shall bear the whole cost of preventing any re-establishment of the pest or spread of same after reappearance, but where his right of occupancy is less, then the owner shall bear a portion of the cost in the following proportion: Where lease or unexpired portion of same is four years, one-fourth; three years, one-third; two years, one-half; one year, all.

Manner in which expenses may be recovered by local authority from occupier.

15. Where a local authority has incurred any expenses in clearing the noxious weeds upon the land of any person, the amount of all such expenses shall be recoverable from such person, with costs, by action or plaint in any Court of competent jurisdiction, or by complaint under "The Justices of the Peace Act, 1882."

The amount of all such expenses shall be ascertained by a Stipendiary Magistrate or any two Justices, who shall sign an account of the same in token of their allowance thereof; and, in any proceeding to recover the amount of such expenses, it shall be sufficient to produce the allowance of such expenses purporting to be signed as aforesaid, and such allowance shall be *prima facie* evidence that the expenses so allowed were actually and lawfully incurred by such local authority as aforesaid, and the onus of proving the contrary shall be with the defendant.

Manner in which expenses may be recovered by local authorities for eradication of weeds on land of unknown owner.

16. Where a local authority has incurred any expenses in clearing the noxious weeds upon any land (not being Crown land), the owner or occupier whereof is unknown or cannot be found, such local authority shall proceed *ex parte*, in manner herein-before directed, to recover the amount of such expenses, and the amount so recovered shall be and remain a charge upon the property in respect of which such amount has been recovered, and the payment of such amount may be enforced at any future time as if the then occupier had himself been liable to pay such amount in the first instance; and the production of a receipt for the amount paid by or recovered from any such occupier for any amount due before the commencement of his occupancy shall be a discharge for the amount so paid or recovered in payment of rent to the owner, and such owner shall be entitled to recover from the person who was occupier when such amount became payable the proportion of the amount to which such occupier was liable as money paid to his use.

As to Native lands not individualised.

17. In the case of Native lands the titles to which have not been individualised, the local authority of the district wherein any such lands are respectively situate shall clear the same, and the cost shall be refunded to the local authority by the Native Minister out

of any moneys available for Native purposes; and the said Minister may register a lien for the said amount in the Native Land Court which shall operate as a charge against the said land.

18. All public reserves, not vested in any trustees or local authority, and Crown lands, shall be cleared by and under the authority of the Government; but the Minister may call upon the local authority in whose district the lands are situated to perform the work, and refund the actual cost thereof out of any moneys appropriated from time to time by Parliament for the purpose.

Public reserves and Crown lands to be cleared by local authority, and proportion of cost refunded.

19. Every local authority administering this Act may from time to time contribute out of their general funds such sum or sums of money as may be deemed necessary for the purpose of clearing or preventing the spread of any noxious weed or plant, and shall use all necessary means to clear such weed or plant from all roads, riverbeds, reserves, and lands under their control.

Local authorities may contribute towards cost of clearing.

20. In the event of any local authority failing or neglecting to administer this Act, then the Minister may appoint an Inspector, who shall proceed to clear the noxious weeds from the lands under the control of the local authority so in default; and all costs so incurred shall be a charge against such local authority, and may be deducted by the Colonial Treasurer from any subsidy or other money payable at any time to such local authority.

If local authority fails to administer Act, Minister may act, and charge cost to local authority.

21. Every person who obstructs, hinders, or interrupts, or causes or procures to be obstructed, hindered, or interrupted, any Inspector, or any person duly employed or authorised, or in the exercise of any power or authority vested in an Inspector or any of the persons aforesaid by this Act, or threatens, or assaults, or uses improper or abusive language to any of the persons aforesaid whilst in the performance or execution of his duty under this Act, is liable to the penalty hereinafter provided.

Hindering or obstructing an Inspector.

But no proceedings for the recovery of any 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.

22. Any person offending against any of the provisions of this Act shall, upon conviction, be liable to a penalty of not less than twenty shillings nor more than one hundred pounds for every such offence.

Penalties for infringing Act.

23. All offences against this Act, and all penalties and sums of money imposed or made payable by this Act, shall, where no other mode of proceeding is by law provided, be heard, determined, and recovered in a summary way by and before two or more Justices of the Peace or a Stipendiary Magistrate, in the mode prescribed by "The Justices of the Peace Act, 1882."

Penalties recoverable before two Justices of the Peace or Stipendiary Magistrate.

24. All penalties recovered under this Act shall, after deducting the cost of recovering the same, be paid into the District Fund of the local authority who prosecuted for the same, or, if the local authority be the Minister, shall be paid into and form part of the Consolidated Fund.

Penalties recovered to be paid to fund of authority prosecuting.

Schedules.

SCHEDULES.

SCHEDULE A.

BATHURST burr (*Xanthium spinosum*).
 Noogoora burr (*Xanthium strumarium*).
 Blackberry (*Rubus fruticosus*).
 Broom (*Cytisus scoparius*).
 Gorse (*Ulex europæus*).
 Sweetbriar (*Rosa rubiginosa*).
 Canadian or Californian thistle (*Cnicus arvensis*).
 Giant burdock (*Arctium majus*).
 Star thistles (*Centaurea calcitrapa* and *C. solstitialis*).
 Wild turnip (*Brassica campestris*).
 Wild mustard (*Sisymbrium officinale*).

SCHEDULE B.

Burdock (*Arctium*, any species).
 Thistles (any species of *Carlina*, *Carduus*, *Cnicus*, *Centaurea*, *Silybum*).
 Bathurst burr (*Xanthium spinosum*).
 Noogoora burr (*Xanthium strumarium*).
 Blackberry (*Rubus fruticosus*).
 Sweetbriar (*Rosa rubiginosa*).
 Gorse (*Ulex europæus*).
 Ox-eye daisy (*Chrysanthemum leucanthemum*).
 Fat-hen or white goosefoot (*Chenopodium album*).
 Dock (*Rumex*, any species).
 Broom (*Cytisus scoparius*).
 Burr clovers (*Medicago denticulata* and *M. maculata*).
 Wild turnip (*Brassica campestris*).
 Ergot (*Claviceps purpurea*).
 Clover dodder (*Cuscuta trifolii*).
 Wild mustard (*Sisymbrium officinale*).

SCHEDULE C.

To A.B. [Chairman of County Council, or other local authority],
 [Address].

1. Length of Live Fences, in chains?	
(a.) Boundary Fence, chains	
(b.) Dividing Fence, chains	
2. Kind of Plant composing Fence?	
3. Estimated Area of Land infected with Weeds?	
4. Nature of Weeds?	

I hereby certify that the above return is made in accordance with section 6 of "The Noxious Weeds Act, 1894," and that it is true and correct.

C.D. [Signature of occupier.]
 [Address of same.]

SCHEDULE D.

To E.F. [address and occupation].

TAKE notice that the land occupied by you, and herein described, is infected with the noxious weeds mentioned below; and I hereby call upon you to clear the said weeds within days from the date of this notice.

Description of Fences or Area of Infected Land.	Description of Weeds to be cleared.

G.H.,
 Inspector.