

Hon. Mr. McKenzie.

NOXIOUS WEEDS.

ANALYSIS.

<p>Title.</p> <p>1. Short Title. Commencement.</p> <p>2. Interpretation.</p> <p>3. Local authorities to administer Act and appoint Inspectors. Except as to certain Native lands.</p> <p>4. Governor may declare other plants or seeds to be noxious weeds or seeds.</p> <p>5. Dates for clearing of weeds.</p> <p>6. Work required in trimming hedges and clearing weeds. Permission to grow gorse.</p> <p>7. No person to sow or sell infected grass or seeds. Onus of proof.</p> <p>8. Threshing - machines to be thoroughly cleansed.</p> <p>9. Inspector may enter upon land to ascertain if weeds exist.</p> <p>10. Notice to be served on occupier of infected land.</p> <p>11. Local authority may do work at occupier's expense.</p> <p>12. Manner in which notices are to be served.</p>	<p>13. Proportion of cost of clearing to be borne by owner.</p> <p>14. Manner in which expenses may be recovered by local authority from occupier.</p> <p>15. Manner in which expenses may be recovered by local authorities for eradication of weeds on land of unknown owner.</p> <p>16. As to Native lands not individualised.</p> <p>17. Public reserves and Crown lands to be cleared by local authority, and proportion of cost refunded.</p> <p>18. Local authorities may contribute towards cost of clearing.</p> <p>19. If local authority fails to administer Act, Minister may act, and charge cost to local authority.</p> <p>20. Hindering or obstructing an Inspector.</p> <p>21. Penalties for infringing Act.</p> <p>22. Penalties recovered to be paid to fund of authority prosecuting.</p> <p>23. Regulations. Schedules.</p>
--	--

A BILL INTITULED

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

BE IT ENACTED by the General Assembly of New Zealand in 5 Parliament assembled, and by the authority of the same, as follows :—

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

10 2. In this Act, if not inconsistent with the context,— Interpretation. "Clear" and all references thereto 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 :

15 "Inspector" means any Inspector appointed under this Act : No. 153—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 : 5
- “Minister” means the Minister for Agriculture or such other Member of the Executive Council as for the time being is acting for him : 10
- “Occupier” means every person in occupation of land, and includes the owner of any unoccupied land :
- “Noxious weeds” means all the plants mentioned in Schedule A, and any others which the Governor in Council from time to time declares to be noxious weeds : 15
- “Noxious seeds” means the seeds or spores of the plants mentioned in Schedule B, and of any other plants which the Governor in Council from time to time declares to be plants producing noxious seeds.
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 : 20
 Provided that where Native lands are outside the jurisdiction of any local authority, the Minister shall administer this Act, and appoint the Inspectors.
4. The Governor from time to time, by Order in Council gazetted, may, on the recommendation of any local authority, declare any plants other than those mentioned in Schedule A to be noxious weeds for the purposes of this Act, and similarly may declare the seeds of other plants than those mentioned in Schedule B to be noxious seeds for the purposes of this Act. 25
5. (1.) The Governor, by Order in Council gazetted, may from time to time fix the dates between which any or all noxious weeds are to be cleared. 30
- (2.) Any local authority may recommend the Governor to fix special dates for the district under its jurisdiction, or for any particular part thereof, and the Governor in Council may vary the dates in accordance with such recommendation if he thinks fit so to do. 35
6. (1.) Every occupier shall in every year, on or before the date specified in that behalf by the Order in Council, take sufficient steps to carry out the following works :— 40
- (a.) In respect of hedges or live fences, to trim or cut and burn all refuse therefrom : Provided that where it can be shown that such trimming or cutting would act injuriously on any particular fence, the local authority in its discretion may extend the period within which such fence shall be cut or trimmed, but so nevertheless that in no case shall such extension be granted for two consecutive years : 45
- (b.) In respect of stray briar, gorse, broom, or blackberry, to clear the same to the extent of at least one half-chain inside from every boundary-fence or boundary-line, and one half-chain on each side of every internal fence or watercourse. 50
- In addition to keeping the above portion clear,

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

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

Dates for clearing of weeds.

Work required in trimming hedges and clearing weeds.

947

every occupier shall clear a like amount in every succeeding year, and so continue till the whole is cleared: Provided that where it can be shown that this provision would press unduly on any occupier, the local authority in its discretion may in any year reduce the width to be cleared, but so nevertheless that in no case shall such reduction exceed one quarter of a chain.

5

(2.) The local authority may grant permission to any occupier to grow gorse for forage or fodder on any given area in its district if it is satisfied that the growing of such gorse will not become a nuisance to other occupiers within the district.

Permission to grow gorse.

10

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

15

7. (1.) Every person who sows, sells, or offers for sale any noxious seeds, or who knowingly sows, sells, or offers for sale for seed purposes any grass-seeds, or other seeds or grain, amongst which are contained any noxious seeds, commits an offence.

No person to sow or sell infected grass or seeds.

20

(2.) In all legal proceedings taken against any person for any breach of this section, the onus shall lie upon him to prove that he did not know of the presence of such noxious seeds.

Onus of proof.

25

8. Every person owning a combine threshing-machine, and every person in charge thereof, who fails to thoroughly clean out every portion of the said machine immediately after threshing at each farm, and before removing such machine or any part thereof from the said farm, commits an offence.

Threshing-machines to be thoroughly cleansed.

30

9. An Inspector, or any person authorised in writing by an Inspector, may without notice enter at any time upon any land, whether enclosed or not, 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 occasioned by such Inspector or person wilfully and without necessity.

Inspector may enter upon land to ascertain if weeds exist.

35

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

Notice to be served on occupier of infected land.

40

11. If, within the time limited in that behalf in any notice as aforesaid, the occupier fails to take sufficient steps or neglects to continue to the satisfaction of the Inspector to clear such noxious weeds, such Inspector shall immediately report the fact to the local authority, who may authorise the Inspector or any other person to enter upon the said land and to use all such means as he deems necessary for the purpose of clearing such noxious weeds at the expense of the occupier; but nothing herein contained shall exempt the occupier from any penalty he may have incurred by reason of his failure or neglect as aforesaid.

Local authority may do work at occupier's expense.

45

12. 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.

Manner in which notices are to be served.

50

Proportion of cost of clearing to be borne by owner.

13. Where the occupier has the right of not less than five years' occupancy of land after the clearing of noxious weeds on such land, he shall bear the whole cost thereof; but where his right of occupancy is less than five years, he shall be entitled to recover from the owner according to the following scale—that is to say : Where 5
the unexpired term of the lease is not less than four years, one-fourth of the cost; less than four but not less than three years, one-third of the cost; less than three but not less than two years, one-half of the cost; less than two years, the whole cost.

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

14. Where a local authority has incurred any expenses in 10
clearing the noxious weeds upon the land of any occupier, the amount of all such expenses shall be recoverable from him, with costs, by action in any Court of competent jurisdiction, or by complaint under "The Justices of the Peace Act, 1882."

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

15. Where a local authority having incurred expenses in 15
clearing the noxious weeds upon any land (not being Crown land), the occupier whereof is unknown or cannot be found, desires to take proceedings under the *last-preceding* section hereof, the following provisions shall apply:—

- (1.) The defendant shall be sufficiently named as "the occupier 20
of [*specifying the land by section and block, or otherwise*]", and the summons may be served by posting it in an envelope addressed to the defendant (named as aforesaid) on the land.
- (2.) Payment of the amount for which judgment is recovered 25
may be enforced at any future time from the then occupier in like manner as if the judgment had been obtained against himself.
- (3.) The occupier who pays the amount of such judgment may, 30
as to so much thereof as was incurred before the commencement of his occupancy, recover the same from the owner of the land, or deduct it from any rent payable to such owner.
- (4.) Such owner may recover from the person who was occupier 35
when such amount first became payable the proportion thereof for which such occupier was liable.

As to Native lands not individualised.

16. (1.) In the case of Native land the title to which has not 40
been individualised, the local authority of the district wherein any such land is 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.

(2.) The Native Minister may register a lien for the said amount 45
in the Native Land Court, and such lien shall operate as a charge against the said land; and thereafter no lease thereof shall have any validity unless and until such charge is satisfied.

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

17. All public reserves, not vested in any trustees or local 50
authority, and all 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 situate to perform the work, and may refund the actual cost thereof out of any moneys appropriated from time to time by Parliament for the purpose.

Noxious Weeds.

- 18. Every local authority shall use all necessary means to clear noxious weeds from all roads, river-beds, reserves, and lands under its control, and may from time to time contribute out of its general funds such sums as are necessary for the purpose of clearing noxious weeds. Local authorities may contribute towards cost of clearing.
- 19. In the event of any local authority failing or neglecting to administer this Act, then the Minister may appoint an Inspector 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.
- 20. Every person commits an offence who obstructs, hinders, or interrupts any Inspector, or any person duly employed or authorised, in the exercise of any power or authority vested in an Inspector or person by this Act, or threatens, or assaults, or uses improper or abusive language to any such Inspector or person whilst in the performance of his duty under this Act. Hindering or obstructing an Inspector.
- 21. But no proceedings for the recovery of any such penalty shall be a bar to any action at law by any such Inspector or person in respect of any such assault as aforesaid, but every such action may be commenced and proceeded with as if no such proceedings had been taken.
- 22. Any person who commits any offence against any of the provisions of this Act is liable to a penalty of not less than *twenty* shillings nor more than *fifty* pounds. Penalties for infringing Act.
- 23. 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 which prosecuted for the same, or, if the local authority be the Minister, shall be paid into the Public Account, and form part of the Consolidated Fund. Penalties recovered to be paid to fund of authority prosecuting.
- 24. The Governor in Council may from time to time make such regulations as he deems necessary in order to give full effect to the provisions of this Act. Regulations.

SCHEDULES.

Schedules.

SCHEDULE A.

- BATHURST burr (*Xanthium spinosum*).
- 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*.)

SCHEDULE B.

- Burdock (*Arctium*, any species).
- Thistles (any species of *Carlina*, *Carduus*, *Cnicus*, *Centaurea*, *Silybum*).
- Bathurst burr (*Xanthium spinosum*).
- 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*).

SCHEDULE C.

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.