

Hon. Mr. J. McKenzie.

NOXIOUS WEEDS.

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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, 1898." It shall come into operation on the first day of January, one thousand eight hundred and ninety-nine. Short Title. Commencement.

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

"Inspector" means any Inspector appointed under this Act:
"Local authority" means a Borough Council, Town Board, or Road Board within the limits of their respective juris-

dictions, 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 :

"Minister" means the Minister for Agriculture or such other Member of the Executive Council as for the time being is acting for him : 5

"Occupier" means every person in occupation of land, and includes the owner of any land which is unoccupied or whereof the occupier is unknown or cannot be found : 10

"Noxious weeds" means all the plants mentioned in the *First* Schedule hereto, and any others which the Governor in Council from time to time declares to be noxious weeds within the meaning of this Act :

"Noxious seeds" means the seeds or spores of the plants mentioned in the *Second* Schedule hereto, and of any other plants which the Governor in Council from time to time declares to be plants producing noxious seeds within the meaning of this Act : 15

"This Act" includes all regulations for the time being in force thereunder. 20

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 within the limits of their respective jurisdictions, and to appoint from time to time Inspectors for such purpose : Provided that where Native lands are outside the jurisdiction of any local authority, the Minister shall administer this Act, and appoint the Inspectors. 25

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

4. The Governor, by Order in Council gazetted, may from time to time declare any plants other than those mentioned in the *First* Schedule hereto to be noxious weeds within the meaning of this Act, and similarly may declare the seeds of other plants than those mentioned in the *Second* Schedule hereto to be noxious seeds within the meaning of this Act. 30

Work required in trimming hedges and clearing weeds.

5. Every occupier shall in every year commence and continuously thereafter shall do all things necessary in order to effectually carry out the following works on his land :— 35

(1.) In respect of hedges or live fences consisting of gorse or broom,—

To trim or cut the same at the proper season of the year, and in every case where the hedge or fence abuts on a watercourse or public road to remove and destroy all trimmings and cuttings therefrom : 40

Provided that where it can be shown that such trimming or cutting would act injuriously on any particular hedge or fence, the local authority in its discretion may extend the period within which such hedge or fence shall be cut or trimmed, but so nevertheless that in no case shall such extension be granted for two consecutive years : 45

(2.) In respect of hedges or live fences consisting of sweetbriar or blackberry,—

To trim or cut the same at the proper season of the year, and remove and destroy all trimmings and cuttings therefrom : 50

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(3.) In respect of all other hedges or live fences,—

To trim or cut the same whenever requested so to do by the local authority, and remove and destroy all trimmings and cuttings therefrom :

(4.) In respect of gorse, broom, sweetbriar, or blackberry not forming portion of a hedge or live fence,—

To clear the same at the proper season of the year along the entire length of every boundary-fence or boundary-line, and on each side of every internal fence, *water-race*, or watercourse to the extent, for the first year, of at least one quarter of a chain, and for each subsequent year of at least an additional quarter of a chain until 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 the width to be cleared be less than *one-eighth* of a chain :

Provided further that 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 thereof will not become a nuisance to other occupiers within the district :

(5.) In respect of all other noxious weeds,—

To clear the same at the proper season of the year, and to the satisfaction of the Inspector.

6. (1.) Every person commits an offence who knowingly sows, sells, or offers for sale—

(a.) Any noxious seeds, *except in the case of gorse-seed to be sown for the planting of hedges or live fences, or for forage or fodder, under the provisions on that behalf contained in the last-preceding section hereof*; or

(b.) Any grass-seed, or other seed or grain, which has not been thoroughly dressed by means of a seed-cleaning machine or other sufficient process for the purpose of removing all noxious seeds :

Provided that in any proceedings under this section against any person for selling or offering for sale any such seed or grain which has not been dressed as aforesaid, it shall be a sufficient defence if he satisfies the Court that *the person to whom* he so sold or offered the same for sale ~~to a dealer in seeds or grain who~~ knew the same had not been dressed, ~~but would himself in the ordinary course of his business dress the same before disposing thereof.~~

(2.) In all legal proceedings taken against any person for any breach of this section, knowledge on the part of the defendant shall be presumed until the contrary is proved.

7. Every person owning any threshing-machine which is used for threshing on more farms than one, and every person in charge thereof, commits an offence—

Permission to grow gorse.

No person to sow or sell infected grass or seeds.

Proviso.

Burden of proof.

Threshing-machine to be thoroughly cleansed.

Who fails to thoroughly clean out such machine immediately after threshing at each farm, and before removing such machine or any part thereof to another farm.

Inspector may enter upon land to ascertain if weeds exist.

8. An Inspector, ~~or any person authorised in writing by an Inspector,~~ may at all reasonable times enter upon any land, whether enclosed or not, for the purpose of ascertaining if the requirements of section *five* hereof have been duly complied with by the occupier; and no such Inspector ~~or person~~ shall be deemed a trespasser by reason of such entry, ~~or be liable for any damage thereby occasioned.~~ 5 10

Notice to be served on occupier of infected land.

9. In any case where default is made by the occupier in complying with any of the requirements of section *five* hereof, the Inspector, by notice in the form in the *Third* Schedule hereto, or to the like effect, shall request the occupier to comply therewith within the period specified in the notice, and it shall be the duty of the occupier so to do. 15

Local authority may do work at occupier's expense, and recover cost.

10. (1.) If, within the time specified in that behalf in any such notice, the occupier fails to commence the work or neglects to continue the same to the satisfaction of the Inspector, 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 do the work at the expense in all things of the occupier; but nothing herein contained shall relieve the occupier from any penalty he may have incurred by reason of his failure or neglect. 20

(2.) The amount of all such expenses shall be recoverable by the local authority from the occupier, with costs, by action in any Court of competent jurisdiction. 25

Proportion of cost of clearing to be borne by owner.

11. Subject to the provisions of his lease, the reasonable expenses properly incurred by an occupier in duly complying with the requirements of section *five* hereof, including reasonable compensation for his own labour or superintendence, may by him be recovered as a debt from the owner to the extent ~~and in the circumstances specified in the Fourth Schedule hereto.~~ 30

New sub-clauses.

(1.) Of one-fourth the total amount thereof where the unexpired term of the lease is not less than four years at the date when the expenses are incurred; 35

(2.) Where such unexpired term is then less than four years, such proportion of the aforesaid total amount as, in the absence of agreement between the parties, is fixed by a Stipendiary Magistrate on summons in that behalf, issued and proceeded upon in like manner as in the case of summary proceedings under "The Justices of the Peace Act, 1882." 40

As to Native lands not individualised.

12. In the case of Native land the title to which has not 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 Minister of Native Affairs out of any moneys available for Native purposes. 45

Cost of clearing a charge against Native land.

13. The Minister of Native Affairs may register in the Native Land Court a memorandum under his hand, in the form in the *Fifth* Schedule hereto, setting forth the amount so refunded, and such memorandum shall operate as a charge against the said land; and 50

thereafter no alienation thereof, whether by way of sale, lease, mortgage, or otherwise, shall have any validity unless and until such charge is satisfied.

5 14. All lands being public reserves, not vested in any trustees or local authority, and all unoccupied 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 be~~ refunded the actual cost thereof *as the work progresses* out of any moneys appropriated from
 10 time to time by Parliament for the purpose.

Clearing of public reserves and Crown lands.

Cost thereof.

15. As part of the administration of this Act, every local authority shall, out of its general revenues, take all necessary steps in order to effectually clear all lands under its control.

Local authority to clear lands under its control.

16. In the event of any local authority at any time failing or neglecting to administer this Act to the satisfaction of the Minister, he may do so in its stead, and for that purpose may appoint an Inspector to clear the lands under the control of such local authority, and generally to exercise the powers and functions by this Act conferred upon the local authority; and all costs thereby incurred shall
 20 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 do so, and charge cost to local authority.

New proviso.

25 Provided that in the case of any dispute between any local authority and the Minister, the same shall be referred for decision to a Judge of the Supreme Court.

17. (1.) Every person commits an offence—

30 Who obstructs, hinders, or interrupts any Inspector, or any person duly employed or authorised, in the exercise of any power or function conferred on him by or under this Act, ~~or threatens, or assaults, or uses improper or abusive language to him~~ whilst exercising any such power or function.

Hindering or obstructing an Inspector.

35 (2.) No proceedings for the recovery of any penalty in respect of any such offence shall be a bar to any action at law by any such Inspector or person in respect of any such act as aforesaid, but every such action may be commenced and proceeded with as if no such proceedings had been taken under this Act.

40 18. Any person who commits any offence against any of the provisions of this Act, or of the regulations thereunder, is liable to a penalty of not less than ~~twenty~~ *five* shillings nor more than *fifty* pounds.

Penalties for infringing Act.

45 19. No proceedings for the recovery of any penalty under this Act shall be commenced except on the information or complaint of an Inspector, or of such other person as the Minister or the local authority appoints in that behalf, and all such proceedings shall be heard and determined before a Stipendiary Magistrate alone.

Inspector to commence proceedings.

50 20. All penalties recovered under this Act in respect of any offence shall, after deducting the cost of recovering the same, be paid into the District Fund of the local authority within whose district the offence was committed, or, if the local authority is the Minister, be paid into the Public Account, and form part of the Consolidated Fund.

Penalties recovered to be paid to fund of authority prosecuting.

Manner in which notices are to be served.

Regulations.

Schedules.

21. Any notice under this Act may be served either by delivering the same personally to the person upon whom the same is to be served, or by leaving the same or posting the same addressed to him at his usual or last known place of abode in the colony, or by affixing same in some conspicuous place on the land to which the notice relates. 5

22. 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.

SCHEDULES.

FIRST SCHEDULE.

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*).

SECOND SCHEDULE.

Burdock (*Arctium*, any species giant and small).
 Thistles (any species of ~~Carlina~~, ~~Carduus~~, Canadian or Californian *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*).

THIRD SCHEDULE.

Under "The Noxious Weeds Act, 1898."

To E.F. [Address and occupation].

TAKE notice that in respect of the land occupied by you, and hereunder described, default has been made in duly complying with the requirements of the said Act as mentioned below; and I hereby call upon you to commence the necessary work within _____ days from the date of this notice, and thereafter to continue the same until the said requirements are effectively complied with.

Description of Fences or Area of Infected Land.	Description of Weeds to be cleared, or of Cutting or Trimming or other Work to be done.

G.H.,
 Inspector.

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FOURTH SCHEDULE.

If at the time when the expenses are incurred the unexpired term of the lease is—

Not less than four years	...	...	...	One-fourth.
Less than four, but not less than three years	...	...	...	One-third.
Less than three, but not less than two years	...	...	...	One-half.
Less than two years	...	...	...	The whole.

~~FIFTH~~ FOURTH SCHEDULE.

Under "The Noxious Weeds Act, 1898."

MEMORANDUM OF CHARGE AGAINST NATIVE LAND.

THE under-mentioned Native land stands charged with £ , being the amount refunded to [Local authority] on the day of , 18 , in respect of the cost of clearing noxious weeds on the said land.

Dated this day of [Describe land.] , 18 .

By Authority: JOHN MACKAY, Government Printer, Wellington.—1898.