



## THE THISTLE PREVENTION ORDINANCE, 1862.

IN THE TWENTY-SIXTH YEAR OF THE REIGN OF HER MAJESTY  
QUEEN VICTORIA.

SESSION XVI., No. 93.

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*AN ORDINANCE to make provision for the Eradication of certain Thistle Plants.*

**W**HEREAS the plant known as the Thistle has appeared in certain Northern parts of the Province of Otago and great injury and loss may be occasioned by allowing it to spread and it is desirable to prevent the same Preamble

BE IT THEREFORE ENACTED by the Superintendent of the Province of Otago with the advice and consent of the Provincial Council thereof as follows:—

1. If at any time after the passing of this Ordinance any owner lessee or occupier of land within the Province of Otago upon which land or upon the half of any road adjacent thereto any of the plants Penalty for not destroying Thistle after notice

commonly known as the thistle shall be growing shall not within fourteen days after any notice in writing that such thistles are growing upon such land or upon such adjacent half of any road signed by any Justice of the Peace shall have been served upon such owner lessee or occupier or left for him at his usual or last known place of abode effectually destroy all of the said plants so known as the thistle then growing and being upon such land or upon such adjacent half of the road every such owner lessee or occupier being convicted thereof shall be liable to a penalty not exceeding fifty pounds and not less than twenty pounds and such penalty may be recovered and the matter determined by two or more Justices of the Peace in a summary way: Provided that it shall be lawful for any such Justices to suspend any conviction upon its being proved to their satisfaction that the person so receiving such notice has used and is using reasonable exertions to destroy such plants and that no information shall be laid against any owner of lands until the provisions of this Ordinance shall have been enforced against the occupier or lessee of such land upon which such thistles may or shall be found and that no second information against such owner occupier or lessee shall be laid within thirty days after any previous conviction.

Where no occupier of Land Notice may be affixed on some conspicuous place on land

2. If there shall be no occupier or lessee of any land or such occupier or lessee or the owner of such land shall be unknown or absent from the said Province and such occupier lessee or owner shall have no known agent resident therein then such notice as aforesaid may be affixed in some conspicuous place upon such land and shall also be published in some newspaper circulating in the neighbourhood thereof and every notice so affixed and published shall be deemed and taken to be sufficient notice to the occupier lessee or owner of such land from the time of its being so affixed and published: Provided that it shall not be necessary for any such last mentioned notice to specify the name of any person as lessee or owner of the land therein referred to but such notice shall contain a description in general terms of the particular portion of the land intended to be affected thereby: Provided also that no owner of any land shall be liable to any payment beyond the expense of and occasioned by the destruction and eradication of the thistles growing and being upon such land and upon such adjacent half of the road as herein provided together with costs of suit by reason merely of any notice having been so affixed as last aforesaid.

If thistles not destroyed within seven days parties may enter for the purpose of destroying them

3. If any such owner lessee or occupier shall for the space of seven days refuse or neglect to destroy the thistles specified in any such notice it shall and may be lawful for any person authorised in writing in that behalf by any Justice of the Peace to destroy and eradicate the same and for that purpose with sufficient assistants to enter upon any lands in respect whereof any such notice shall have been given as aforesaid and every such person shall be entitled to recover from such owner lessee or occupier the expense of and attending such destruction and eradication such expenses to be assessed and allowed by two or more Justices of the Peace together

with costs of suit by action or plaint in any court of competent jurisdiction or by proceedings in a summary manner before two or more Justices as if such amount had been a pecuniary penalty awarded by such Justices and which action plaint or proceedings may be commenced instituted had and taken in the name of such person or Justice of the Peace by whom such person was authorised as hereinbefore mentioned.

4. It shall be lawful for any person authorised in writing in that behalf by any Justice of the Peace without notice to enter upon any lands whether enclosed or not for the purpose of ascertaining if any such thistles are growing and being thereupon and no such person shall be deemed a trespasser by reason of such entry or be liable to any damage thereby occasioned unless the same was occasioned by such person wilfully and without necessity.

Persons authorised may enter upon Lands to search for Thistles

5. Upon complaint duly made to any Justice of the Peace that any such thistles are suspected to be growing or are growing upon any land such Justice shall make an order in writing for the party complaining or for some other person to enter upon such land to search and ascertain if there are any such thistles growing and being thereupon or as the case may be shall sign such notice to the owner or occupier of any lands as hereinbefore provided and also upon being satisfied that such thistles are growing and that such notice has been served or left or affixed and advertised as herein provided shall make an order for the destruction and eradication of any such thistles as aforesaid growing and being upon any land by some person to be named in such order the expense of which shall be recoverable as hereinbefore provided.

Justices to act upon Complaint duly made

6. If the owner of any land of which there shall be no occupier as aforesaid shall be unknown or shall not reside within the Province it shall be lawful for any Justice or person so entitled as aforesaid to sue for and recover in the Supreme Court the expense of and attending the destruction and eradication of such thistles and the costs of suit provided that such destruction and eradication was effected under the authority of a Justice of the Peace after due notice as aforesaid and that the expenses of and attending such destruction and eradication have been assessed and allowed by two or more Justices of the Peace and that a description in general terms of the particular portion of such land intended to be affected thereby shall be verified by affidavit and shall be supported by the production of such vouchers also certified by affidavit as any Judge of the Supreme Court may require.

Mode of procedure for recovery of expense of eradication when owner of Land unknown or absent from Otago

7. When any such thistles shall be growing upon any waste and unoccupied Lands of the Crown it shall be lawful for the Superintendent to employ the necessary laborers and continue to destroy and eradicate the said thistles and the expenses of the same shall be defrayed out of any vote of the Provincial Council for such purpose: Provided that when such Waste Lands shall be included within the boundaries of any Lands held under lease or license from the Crown

Thistles growing upon Waste Lands of the Crown may be eradicated

then in such case the authorised occupant of such Waste Lands shall be taken to be the owner and occupier of such lands for the purposes of this Ordinance for the purpose of being served with notice as aforesaid and for the purpose of being liable to the penalties hereby imposed: Provided further that where it shall be proved to the satisfaction of any two Justices that any such occupant of Crown Lands held under lease or license shall have expended in any one year a sum equal to threepence per acre on any one Run towards the extermination of such thistles then it shall be lawful for the Superintendent by warrant as aforesaid to direct payment as before mentioned of any sum expended upon such Run by such occupant of Crown Lands in the destruction of such thistles over and above such amount so expended as aforesaid.

Interpretation Clause

8. In the construction of this Ordinance the word "plant commonly known as the thistle" and the word "thistle" shall be held to mean the plants known by the botanical names of *Carduus Marianus*, *Carduus Benedictus*, *Carduus Lanceolatus*, *Onopordum Acanthium*, and *Xanthium Spinosum*.

Short Title

9. This Ordinance shall be termed and recited and referred to as "The Thistle Prevention Ordinance 1862."

Passed the Provincial Council this fourth day of December one thousand eight hundred and sixty-two.

ALEX. RENNIE,

CHARLES SMITH,

*Speaker.*

*Clerk of Council.*

Assented to on behalf of the Governor at Dunedin this nineteenth day of December one thousand eight hundred and sixty-two.

J. L. C. RICHARDSON,

*Superintendent of the Province of Otago.*