

Mr. Wright.

CALIFORNIAN THISTLE.

ANALYSIS.

	Title.		
1.	Short Title.	14.	Local authority may recover expenses of clearing from occupier. Proviso.
2.	Interpretation.	15.	Cost of clearing to be a charge against land of unknown owner.
3.	Local authorities to administer Act and appoint Inspectors. Proviso as to Native lands.	16.	Cost of clearing of public reserves and Crown lands.
4.	Occupier to give notice if his land infected. Penalty for neglect.	17.	Local authority to clear land under its control.
5.	Persons liable for sale of hay or grain seeds containing seeds of Californian thistle.	18.	If local authority fails to administer Act, Minister may do so, and charge cost to local authority.
6.	Onus of proof.	19.	Local authority may contribute towards cost of clearing.
7.	Threshing-machine to be cleaned after use.	20.	Where cost of clearing private land exceeds £10, one-third to be borne by local authority.
8.	Inspector may enter and inspect land.	21.	Offence: Hindering or obstructing an Inspector.
9.	Notice to be served on occupier of infected land.	22.	Penalty for breach of Act.
10.	Local authority may clear land at occupier's expense.	23.	Commencement of proceedings.
11.	In certain cases proportion of expense to be borne by owner.	24.	Penalties recovered, how dealt with.
12.	Cost of clearing certain Native lands.	25.	Service of notice.
13.	Native land to be charged with cost of clearing.	26.	Regulations. Schedules.

A BILL INTITULED

AN ACT to prevent the Spread of Californian Thistle.

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 Californian Thistle Act, 1899." It shall come into operation on the first day of January, nineteen hundred.

Short Title.

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 the plant commonly known and in this Act referred to as the Californian thistle (*Cnicus arvensis*), so as to prevent any part thereof from flowering or spreading, or taking such other means to destroy such plant or prevent the same from flowering or spreading as shall be approved of by the local authority:

"Infected land" means any land on which Californian thistle is growing:

“Inspector” means any Inspector appointed under this Act :

“Local authority” means a Borough Council or County Council within the limits of their respective jurisdictions, and in all counties wherein “The Counties Act, 1886,” is suspended means the various Road Boards and Town Boards in such counties within the limits of their respective jurisdictions, and in all parts of the colony outside of any 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 :

“Occupier” includes the owner of any unoccupied land. Where a water-race passes through any land the occupier or owner of such land shall, for the purposes of this Act, be deemed to be the occupier or owner of the land occupied by or used in connection with such water-race, notwithstanding that such water-race may be vested in, or be under the control or management of, any County Council, Road Board, or other local authority :

“This Act” includes all regulations for the time being in force thereunder.

Local authorities to administer Act and appoint Inspectors. Proviso as to 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.

Occupier to give notice if his land infected.

4. The occupier of any land upon which any Californian thistle is growing shall, between the first and thirty-first days of October in each year, furnish a return thereof to the local authority, as in the form in the *First Schedule*, stating the estimated area of such infected land ; and every occupier who refuses or neglects to make such a return shall be liable to a penalty as hereinafter provided.

Penalty for neglect.

Persons liable for sale of hay or grain seeds containing seeds of Californian thistle.

5. Every person who 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 Californian thistles, is liable to the penalty hereinafter provided, unless the Court shall be satisfied that at the time of the sale or offering for sale of such hay, straw, chaff, or grain, or grass-seed the defendant was ignorant that the same contained the seed of Californian thistles.

Onus of proof.

6. 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.

Threshing-machine to be cleaned after use.

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 —

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 and inspect land.

8. 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 Californian thistles 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.

5 9. If any Californian thistle shall be found growing upon any land, the Inspector shall cause a notice in the form as shown in the *Second* Schedule, or to the like effect, to be served upon the occupier thereof.

Notice to be served on occupier of infected land.

10 10. (1.) 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 Californian thistles, 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
15 lawful means as he may deem necessary for the clearing of such Californian thistle 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.

Local authority may clear land at occupier's expense.

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.

11. Where it can be shown that a tenant has the right of five years' occupancy of land, after the clearing of Californian thistle on such land, he shall bear the whole cost of preventing any
25 re-establishment of the Californian thistle 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.

In certain cases proportion of expense to be borne by owner.

30 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.

Cost of clearing certain Native lands.

35 13. The Minister of Native Affairs may register in the Native Land Court a memorandum under his hand, in the form in the *Third* Schedule hereto, setting forth the amount so refunded, and such memorandum shall operate as a charge against the said land; and thereafter no alienation thereof, whether by way of sale, lease,
40 mortgage, or otherwise, shall have any validity unless and until such charge is satisfied.

Native land to be charged with cost of clearing.

14. Where a local authority has incurred any expenses in clearing the Californian thistle upon the land of any person, the amount of all such expenses shall be recoverable from such person, with costs, by
45 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 may be ascertained by a Stipendiary Magistrate, who shall sign an account of the same in token of his allowance thereof; and in any proceeding to recover the amount of such
50 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

Local authority may recover expenses of clearing from occupier.

actually and lawfully incurred by such local authority as aforesaid, and the onus of proving the contrary shall be with the defendant :

Proviso.

Provided always that the signing of an account of such expenses by a Stipendiary Magistrate as aforesaid shall not be deemed a condition precedent to the right of the local authority to recover such expenses from the person liable, and the amount thereof may be otherwise proved to the Court. 5

Cost of clearing to be a charge against land of unknown owner.

15. Where a local authority has incurred any expenses in clearing the Californian thistle 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 hereinbefore 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 the same in the first instance, and the judgment or order of the Court in respect thereof had been made against him personally ; and the production of a receipt for the amount paid by or received 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. 10 15 20

Cost of clearing of public reserves and Crown lands.

16. 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 refund the actual cost thereof out of any moneys appropriated from time to time by Parliament for the purpose. 25 30

Local authority to clear land under its control.

17. 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.

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

18. 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 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. 35 40

Local authority may contribute towards cost of clearing.

19. Every local authority administering this Act may from time to time contribute out of its general funds such sum or sums of money as may be deemed necessary for the purpose of clearing or preventing the spread of Californian thistle, whether upon public or upon private lands, and shall use all necessary means to clear Californian thistle from all roads, river-beds, water-races, reserves, and lands under its control. 45 50

Where cost of clearing private land exceeds £10, one-third to be borne by local authority.

20. Notwithstanding anything hereinbefore contained, where the cost of clearing the Californian thistle upon any private land shall

exceed the sum of ten pounds, one-third of such cost shall be borne and paid by the local authority within whose jurisdiction such land is situated; but no occupier of any private land shall be entitled to require or recover payment from the local authority in respect of clearing any Californian thistle from his land until he shall have produced to such local authority a certificate from the Inspector that the work of clearing has been well and effectually done.

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

Offence.
Hindering or obstructing an Inspector.

10 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.

15 (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.

20 22. 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* shillings nor more than *fifty* pounds.

Penalty for breach of Act.

25 23. 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.

Commencement of proceedings.

30 24. 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, how dealt with.

35 25. 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.

Service of notice.

40 26. 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.

FIRST SCHEDULE.

To A. B. [*Chairman of local authority*].

ESTIMATED area of land infected with Californian Thistle:

Description of land [*Giving numbers of sections and such other particulars as may be necessary to identify the land*]:

I hereby certify that the above return is made in accordance with section 4 of "The Californian Thistle Act, 1899," and that it is true and correct.

C. D.

[*Signature of occupier and address of same.*]

Californian Thistle.

SECOND SCHEDULE.

To E. F. [*Address and occupation*].

TAKE notice that the land occupied by you, and herein described, is infected with Californian thistle, and I hereby call upon you to clear the said Californian thistle within _____ days from the date of this notice.

[*Describe land and approximate area.*]

G. H., Inspector.

THIRD SCHEDULE.

Under "The Californian Thistle Act, 1899."

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 _____, 1 _____, in respect of the cost of clearing Californian thistle on the said land.

[*Describe land.*]

Dated this _____ day of _____, 1 _____.