

Hon. Mr. McKenzie.

NOXIOUS WEEDS (No. 2).

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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, 1893." It shall come into operation on the first day of January, one thousand eight hundred and ninety-four. Short Title.  
Commencement.
- 10 2. In this Act, if not inconsistent with the context,— Interpretation.
  - "Eradicate" 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 growing :
  - "Infected land" means any land actually occupied or covered
  - 15 by any noxious weed or weeds as defined by this Act :
  - "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 jurisdiction, and in all parts of counties outside of town

districts and road districts means the County Council, and in all counties outside as aforesaid where "The Counties Act, 1886," is not in operation means the Minister of Agriculture :

"Occupier" includes the owner of any unoccupied land : 5

"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.

Local authorities shall administer.

3. It shall be the duty of all local authorities to administer this Act. 10

Appointment of Inspectors.

4. All Inspectors shall be appointed by the local authorities, and, in the event of the failure or neglect to make such an appointment, the Governor may appoint an Inspector, who shall be upon the same footing and have the same powers as if he had been appointed by the local authority. 15

Dates for eradication of weeds.

5. The Governor may, from time to time, by Proclamation, fix the dates between which any or all of the weeds mentioned in Schedule A, or which may hereafter be proclaimed, are to be destroyed. 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. 20

Occupier to give notice if his land is infected.

6. The occupier of any land infected with noxious weeds shall, between the first and thirtieth days of November in each year, furnish a return thereof to the local authority, as per Schedule B, stating the estimated area of such infected land, and the nature of the weeds upon such land; and every occupier who refuses or neglects to make such a return shall be liable to a penalty as hereinafter provided. 25

Work required in trimming hedges and eradicating 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 :— 30

In respect of hedges or live fences, to trim or cut and burn all refuse therefrom : 35

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

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 eradicated; 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. 40 45

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. 50

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 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.

9. If any noxious weeds shall be found growing upon any land, the Inspector shall report the fact to the local authority, who 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.

10. If, within the time limited in that behalf in any notice as aforesaid, the occupier of any land shall fail to take steps, and neglect to continue in his efforts to the satisfaction of the local authority, for cutting down, eradicating, or exterminating such noxious weeds, such local authority may authorise the Inspector or any person in writing to enter upon the said land and to use all such lawful means as he may deem necessary for the cutting-down or eradicating 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.

Local authority may do work at occupier's expense.

11. 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.

12. Where it can be shown that a tenant has the right of five years' occupancy of land, after the extermination 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.

Proportion of cost of eradication to be borne by owner.

13. Where a local authority has incurred any expenses in cutting down or eradicating 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."

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

The amount of all such expenses shall be ascertained by any two Justices, who shall sign 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 by two or more Justices, 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.

14. Where a local authority has incurred any expenses in cutting down or eradicating the noxious weeds upon any land (not being

Manner in which expenses may be recovered by local

authorities for eradication of weeds on land of unknown owner.

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 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.

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

15. All public reserves and Crown lands shall be cleared by the local authority in whose district such lands are situate, and three-fourths of the cost of such clearing or eradication shall be refunded to the local authority out of any moneys appropriated from time to time for the purpose by Parliament.

Local authorities may contribute towards cost of eradication.

16. 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 eradicating or preventing the spread of any noxious weed or plant, and shall use all necessary means to eradicate such weed or plant from all roads, riverbeds, reserves, and lands under their control within the district under their jurisdiction.

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

17. In the event of any local authority failing or neglecting to administer this Act, then the Governor shall appoint an Inspector, who shall proceed to eradicate 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.

Hindering or obstructing an Inspector.

18. 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.

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.

Penalties for infringing Act.

19. 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 *fifty* pounds for every such offence.

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

20. 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 Resident Magistrate, in the mode prescribed by "The Justices of the Peace Act, 1882."

21. 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 of Agriculture, 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*).

SCHEDULE B.

To A.B., Mayor [Chairman of Road Board, or other local authority],  
[Address].

Description and Estimated Area of Infected Land.	Nature of Weeds on such Land.

I hereby certify that the above return is made in accordance with section 6 of "The Noxious Weeds Act, 1893," and that it is true and correct.

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

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 destroy the said weeds within \_\_\_\_\_ days from the date of this notice.

Description and Area of Infected Land.	Description of Weeds to be destroyed.

G.H.,  
Inspector.