

Hon. Mr. J. McKenzie.

Hon. Mr. Hall-Jones.

NOXIOUS WEEDS.

ANALYSIS.

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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, 1899." Short Title.

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 within the limits of its borough, a Town Board within the limits of its town district, a Road Board within the limits of its road district, a County Council within the limits of all parts of its county not comprised in a town district or a road district, and the Minister within the limits of any

county where "The Counties Act, 1886," is suspended or has never been in operation (such last-mentioned limits being, however, exclusive of town districts or road districts); and each such local authority shall for the purposes of this Act have jurisdiction within the aforesaid limits accordingly: 5

"Minister" means the Minister for Agriculture, and includes any other member of the Executive Council, being a responsible Minister of the Crown, who for the time being is acting for him: 10

"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:

"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, as hereinafter provided: 15

"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, as hereinafter provided: 20

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

Act divided into Parts.

3. This Act is divided into two parts—namely, Part I., sections *six to eight*; Part II., sections *nine to twenty-five*. 25

Part II. to be in force only in districts of such local authorities as adopt same.

4. Part II. of this Act shall have operation only within those parts of the colony which are within the jurisdiction of such local authorities as adopt Part II. of this Act, and for the purposes of such adoption the following provisions shall apply:— 30

(1.) With respect to such parts of the colony as are within the jurisdiction of the Minister as the local authority thereof, such adoption shall be effected by notice by the Minister in the *Gazette*, and shall, according to the tenor of the notice, extend to all such parts of the colony or to any such one or more of them as are specified in the notice. 35

(2.) The Minister may gazette such notice from time to time for the purpose of adopting Part II. of this Act within different parts of the colony within his jurisdiction.

(3.) With respect to such parts of the colony as are within the jurisdiction of any local authority other than the Minister, such adoption shall be effected by special order, and shall in every case extend to all parts of the colony within the jurisdiction of the local authority making the special order. 40

(4.) Any local authority which has adopted Part II. of this Act in manner aforesaid may in like manner rescind such adoption, and thereupon, and until it is again adopted, Part II. of this Act shall cease to have operation within the jurisdiction of such local authority, or, in the case of the Minister, within such parts of the colony within his jurisdiction as are specified in the rescinding notice. 45 50

5. The Governor, by Order in Council gazetted, may from time to time—

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

(1.) Declare any plants other than those mentioned in the *First* Schedule hereto to be noxious weeds within the meaning of this Act, and

(2.) Declare the seeds of other plants than those mentioned in the *Second* Schedule hereto to be noxious seeds within the meaning of this Act.

PART I.

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

No person to sow or sell infected grass or seeds.

(a.) Any noxious seeds, except in the case of gorse-seed to be sown for forage or fodder by permission in writing of the local authority, or for the planting of hedges or live fences; 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 paragraph (b) of this section against any person for knowingly selling or offering for sale any 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 knew the same had not been dressed.

Proviso.

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

Burden of proof.

7. Every person owning or being in charge of any threshing-machine which is used for threshing on more farms than one commits an offence if he 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.

Threshing-machine to be thoroughly cleansed.

8. Every person who commits any offence against this Part of this Act is liable to a penalty of not less than *ten* shillings nor more than *fifty* pounds.

Penalty for offences under this Part.

PART II.

9. It shall be the duty of all local authorities to administer this Part of this Act within the limits of their respective jurisdictions, and to appoint from time to time Inspectors for such purpose.

Local authorities to administer this Part and appoint Inspectors.

10. 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:—

Work required in trimming hedges and clearing weeds.

(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, where the hedge or fence abuts on a water-course or public road, to remove and destroy all refuse resulting from the work:

Provided that, where it can be shown that such trimming or cutting, if done at any specified period, would

act injuriously on any particular hedge or fence, the local authority in its discretion may extend the period within which the trimming or cutting may be done :

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

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To trim or cut the same at the proper season of the year, and remove and destroy all refuse resulting from the work :

- (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 refuse resulting from the work :

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- (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 of at least one quarter of a chain each year until the whole is cleared :

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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 :

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Permission to grow gorse.

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 and so long as it is satisfied that the growing thereof will not become a nuisance to other occupiers within the district :

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

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

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Inspector may enter upon land to ascertain if weeds exist.

11. 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 *ten* hereof have been duly complied with by the occupier ; and no such Inspector shall be deemed a trespasser by reason of such entry.

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Notice to be served on occupier of infected land.

12. In any case where default is made by the occupier in complying with any of the requirements of section *ten* hereof, the Inspector may, by notice to the occupier in the form in the *Third* Schedule hereto, or to the like effect, specify the requirements as to which default has been made, and request him to comply with them by doing the necessary work within the period specified in the notice ; and it shall be the duty of the occupier so to do.

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

13. (1.) If the occupier fails or neglects to duly comply with such notice, the 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, neglect, or default.

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(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.

14. Subject to the provisions of his lease, the reasonable expenses properly incurred by an occupier in duly complying with the requirements of section *ten* hereof, including reasonable compensation for his own labour or superintendence, may by him be recovered as a debt from the owner to the extent following, that is to say,—

Proportion of cost of clearing to be borne by owner.

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

(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."

15. 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 if the Native occupants fail or neglect so to do to the satisfaction of the local authority, and the cost thereby incurred by the local authority shall be refunded to it by the Minister of Native Affairs out of any moneys available for Native purposes.

As to Native lands not individualised.

16. The Minister of Native Affairs may register in the Native Land Court a memorandum under his hand, in the form in the *Fourth* 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, mortgage, or otherwise, shall have any validity unless and until such charge is satisfied.

Cost of clearing a charge against Native land.

17. All lands being public reserves, not vested in any trustees or local authority, and all unoccupied Crown lands, shall from time to time be cleared by the Minister or under his authority:

Clearing of public reserves and Crown lands.

Provided that the Minister may call upon the local authority in whose district the lands are situate to perform the work, and in such case the local authority performing the work shall be entitled to receive the actual cost thereof, as the work progresses, out of any moneys appropriated by Parliament for the purpose.

Cost thereof.

18. As part of the administration of this Part of this Act, every local authority, other than the Minister, shall, out of its general revenues, from time to time clear all lands under its control.

Local authority to clear lands under its control.

19. In the event of any local authority, other than the Minister, at any time failing or neglecting to administer this Part of this Act to the satisfaction of the Minister, he may cause the same to be done in its stead, and for that purpose may appoint Inspectors, and generally exercise the powers and functions by this Part of 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 by the Government:

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

Provided that, if any dispute arises under this section between any local authority and the Minister, the same shall be referred to a Stipendiary Magistrate, whose decision shall be final.

Hindering or obstructing an Inspector.

20. (1.) Every person commits an offence who obstructs or hinders any Inspector, or any person duly employed or authorised, in the exercise of any power or function conferred on him by or under this Part of this Act. 5

(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. 10

Penalties for infringing Act.

21. Every person who commits any offence against any of the provisions of this Part of this Act, or of the regulations thereunder, is liable to a penalty of not less than *ten* shillings nor more than *twenty* pounds. 15

Inspector to commence proceedings.

22. No proceedings for the recovery of any penalty under this Part of 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. 20

Penalties recovered to be paid to fund of authority prosecuting.

23. All penalties recovered under this Part of 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. 25

Manner in which notices are to be served.

24. Any notice under this Part of 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 the same in some conspicuous place on the land to which the notice relates. 30

Regulations.

25. 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 Part of this Act. 35

Schedules.

SCHEDULES.

FIRST SCHEDULE.

BATHURST burr (*Xanthium spinosum*).
 Blackberry (*Rubus fruticosus*).
 Broom (*Cytisus scoparius*).
 Canadian or Californian thistle (*Cnicus arvensis*).
 Giant burdock (*Arctium majus*).
 Gorse (*Ulex europæus*).
 Hakea (*Hacicularis*).
 Sweetbriar (*Rosa rubiginosa*).

Noxious Weeds.

SECOND SCHEDULE.

BATHURST burr (*Xanthium spinosum*).
 Blackberry (*Rubus fruticosus*).
 Broom (*Cytisus scoparius*).
 Burdock (*Arctium*, any species).
 Burr clovers (*Medicago denticulata* and *M. maculata*).
 Clover dodder (*Cuscuta trifolii*).
 Dock (*Rumex*), any species.
 Ergot (*Claviceps purpurea*).
 Fat-hen or white goosefoot (*Chenopodium album*).
 Gorse (*Ulex europæus*).
 Ox-eye daisy (*Chrysanthemum leucanthemum*).
 Sweetbriar (*Rosa rubiginosa*).
 Thistles (any species of *Carlina*, *Carduus*, *Cnicus*, *Centaurea*, *Silybum*).
 Wild turnip (*Brassica campestris*).

THIRD SCHEDULE.

Under "The Noxious Weeds Act, 1899."

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.

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

G. H.,
Inspector.

FOURTH SCHEDULE.

Under "The Noxious Weeds 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 noxious weeds on the said land.

Dated this day of , 1 .
[Describe land.]