

PROVINCE OF MARLBOROUGH.



THE THISTLE ACT, 1862.

IN THE TWENTY-FOURTH AND TWENTY-FIFTH YEARS OF THE REIGN OF HER MAJESTY QUEEN VICTORIA.

SESSION V., No. 1.

ANALYSIS:

- Title.
- Preamble.
- 1. Repeal of previous Act.
- 2. Occupier of land failing to destroy Thistles liable to Penalty.
- 3. How notice to be served.
- 4. Persons entitled to possession of unoccupied land failing to destroy Thistles liable to Penalty.
- 5. Any authorised person may enter upon unoccupied land, after notice having been given, and cut down Thistles, expense so incurred to be determined by two Justices, and to be a charge upon the land, recoverable by distress as soon as the land is occupied.
- 6. In case of dispute as to liability, land may be treated as land the ownership of which cannot be ascertained.

- 7. Road Boards, wherever established, to destroy Thistles growing upon roads under their charge; and in case of their neglecting to do so, the same may be treated as unoccupied land.
- 8. Superintendent to apply moneys voted for the purpose to destruction of Thistles.
- 9. Constable not to be liable to action of trespass.
- 10. Superintendent to appoint Inspectors for enforcing provisions of this Act.
- 11. Penalties recoverable summarily.
- 12. No Penalty under this Act to exceed one hundred pounds.
- 13. When this Act shall come into force.
- 14. Short Title.
- Schedule.

An Act to repeal "An Act to Prevent the Increase of Thistles," and to make other provisions in lieu thereof.

WHEREAS an act was passed by the Superintendent and Provincial Council of the Province of Nelson, in Session VI., No. 3, intituled "The Thistle Act, 1859": And whereas it is expedient that the said act should be repealed, and other provisions made in lieu thereof. Be it therefore enacted by the Superintendent of the Province of Marlborough, with the advice and consent of the Provincial Council thereof, as follows:—

- 1. The said recited act shall be, and the same is, hereby repealed. Repeal of previous Act.
- 2. Any person who, after having received notice in writing, in the form or to the effect set forth in schedule hereto annexed, shall have failed, within seven days after the receipt of such notice, to destroy any thistles not indigenous upon land in his occupation, shall forfeit any sum not exceeding five pounds; and it shall be lawful for any one authorised on that behalf, by writing under the hand of any Justice of the Peace, or for any constable of the province without such authority, at any time after Occupiers of land failing to destroy Thistles liable to Penalty.

such default, to destroy, or cause to be destroyed, the thistles growing on such land, and the expense of so doing shall be recoverable by action in a summary way from the occupier of such land.

How Notice to be served.

3. Such notice may be personally served or left at the usual place of abode by any constable of the province, or by the person giving such notice; and it shall be the duty of all constables to assist in carrying out the provisions of this act.

Persons entitled to possession of unoccupied Land failing to destroy Thistles liable to penalty.

4. Every person entitled to the possession of unoccupied land upon which thistles shall be found growing, who shall not cut down or destroy such thistles after notice so to do, as required by this act, shall be liable to a fine of not more than five pounds.

Any authorised person may enter upon unoccupied land, after notice having been given, and cut down Thistles, expense so incurred to be determined by two Justices, and to be a charge upon the land, recoverable by distress as soon as the land is occupied.

5. It shall be lawful for any one, duly authorised in that behalf by authority in writing of any Justice of the Peace, or for any constable without such authority, to enter upon any unoccupied land, or land the ownership of which cannot be ascertained, and destroy, or cause to be destroyed, employing for that purpose such labour as he may find necessary, any thistles growing thereon, and the expense of so doing shall be paid by the Superintendent out of the Provincial Treasury from funds voted for that purpose, and the same may be recovered by distress upon the premises so soon as, and at any time after, the same may be occupied: Provided always that the expense incurred as aforesaid may be determined by any two Justices of the Peace; and that in all cases in which the land is private property, or is held in trust, a description of the land so becoming liable, and the amount of money due, shall at the earliest convenient opportunity be published in the *Government Gazette*, and thereafter annually until all arrears due shall have been paid.

In case of dispute as to liability, land may be treated as land the ownership of which cannot be ascertained.

6. Where any dispute or question shall arise between parties interested in any land as to who is the proper party to destroy thistles, or where the party responsible shall not reside within the province, the land may, for the purposes of this Act, be dealt with as land the ownership of which cannot be ascertained.

Road Boards, wherever established, to destroy Thistles growing upon roads under their charge; and in case of their neglecting to do so, the same may be treated as unoccupied land.

7. It shall be the duty of the Road Board of any district that may hereafter be established as a Road Board District, to destroy all thistles growing upon any road which is under the charge of any such Road Board, and in any case in which a Road Board shall neglect to do so, those parts of the road on which thistles are allowed to grow shall be considered, for the purposes of this act, as unoccupied land, and, after four days' notice, any thistles growing on the roads may be destroyed by any constable of the province, or any other person duly authorised in that behalf; and the amount of the expense so incurred and ascertained, as provided for in clause 5, may be withheld by the Superintendent from any amount which may have been voted by the Provincial Council for the maintenance of the roads in the district, or may be recovered from the Road Board by summary process at the suit of the constable or other authorised person as aforesaid.

Superinten-

8. Out of any sums of money which may be voted for the purposes of this act

the Superintendent may appropriate such sums as may seem to him expedient to the destruction of any thistles growing on crown lands or any roads under the control of the Superintendent, or advance any sums that may be required to pay the expense of the destruction of thistles on any other land, until the cost can be recovered from the parties liable to pay the same.

dent to apply moneys voted for the purpose to destruction of Thistles.

9. For the purposes of carrying out this act any constable of the province, or any person authorised in that behalf by any Justice of the Peace, may enter upon any land, and shall not by so doing be liable to any action of trespass.

Constable not to be liable to action of trespass.

10. It shall be lawful for the Superintendent to appoint any competent person or persons for such portion of each year, as he may deem fit, to act as Inspector or Inspectors, for the purpose of enforcing the provisions of this act, whose duty it shall be to visit and inspect all lands within this province; and any such Inspector or Inspectors by so doing shall not be liable to any action of trespass.

Superintendent to appoint Inspectors for enforcing provisions of this Act.

11. All penalties imposed under the authority of this act shall be recoverable in a summary way before any Justice of the Peace.

Penalties recoverable summarily.

12. No penalty or penalties to be imposed in any one case, under the authority of this act, shall exceed the sum of one hundred pounds.

No Penalty under this Act to exceed one hundred pounds.

13. This act shall come into operation immediately upon the Governor assenting thereto.

When this Act shall come into force.

14. The short title of this act shall be "The Thistle Act, 1862."

Short Title.

SCHEDULE.

Schedule.

WHEREAS certain thistles are growing on Section No. in the District of

This is to give notice, that if the thistles on such land are not destroyed within seven days from the date hereof, the said thistles shall be destroyed at the expense of the owner or occupier of such land as the law directs.

Dated this day of Signed [A. B.] 186

Passed the Provincial Council, Marlborough, on Friday, 21st of March, 1862.

CYRUS GOULTER, Speaker.

Reserved for the signification of the Governor's pleasure thereon.

W. D. H. BAILLIE, Superintendent.

I hereby assent to this Act, this 28th day of May, in the year of our Lord One thousand eight hundred and sixty-two.

G. GREY, Governor.