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Vol. 4 No. 6

THE OFFICIAL JOURNAL OF THE INSTITUTE OF NOXIOUS PLANTS OFFICERS INCORPORATED

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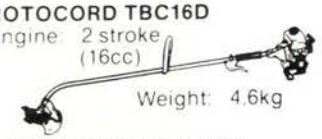

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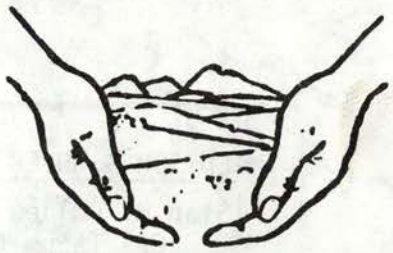

The Official Journal of I.N.P.O.

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BEST PART (Say some)

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SPECIAL NOTE

The views expressed in this Journal are those of the individual and not necessarily those of the Institute of Noxious Plants Officers unless otherwise stated.

Arthur Healy

DISCUSSES PLANTS

Presented at the I.N.P.O.'s Annual Conference, Blenheim, in May.

Plants exhibited and discussed included:

1. APPLE OF PERU (*Nicandra physalodes*): Solanaceae - nightshade family.

   Erect branching annual, to 1 metre tall : confined with the cape gooseberry (*Physalis peruviana*), but recognised by the plant hairless, flowers large, light blue, the berries dry and the surrounding "cape" (inflated calyx) strongly angled, stiff, cut to the base. Advisable to treat as toxic. Waste land, domestic gardens, arable land. Occasionally seen as an ornamental here, and in recent times in Britain was promoted as a house plant under the name "shoo-fly plant" - reputed to keep flies from houses - an unjustified claim I gather. Appears to come in as an impurity in imported crop seed, and occur as a crop weed. Seeds capable of lasting for long periods in the soil, and if infested land is sown to pasture, the weed is likely to re-appear when the pasture is broken up. (Peru).

2. ASIATIC KNOTWEED (*Polygonum cuspidatum*): Polygonaceae - dock and willow weed family.

   A now well established garden escape: vigorous, colony-forming perennial, with strong rhizomes. Stems zig-zag, to 2 metres tall, reddish-brown; flowers small, whitish, in branched heads. A problem weed of waste land, roadsides, occasionally in pasture: a troublesome plant in built-up areas, established in vacant sections, rough gullies, and on banks: breaks up footpaths, gutter channels and edges of sealed roadways. (Japan).

3. BAMBOO GRASS (*Oryzopsis miliacea*): Gramineae - grass family.

   Tall growing, tufted, bambusoid perennial, to 1.5 metres tall: heads long, open, delicate, used as dry interior decorative material. Garden escape, now established and noticeable in dry waste places: scattered plants on colonies. Related to the needle grasses, and sometimes erroniously called "*Stipa verticillata*". (Mediterranean region).

4. BARBERRIES (*Berberis*): Berberidaceae - barberry family.

   The two gazetted species of barberry are readily distinguished on spine and leaf features: barberry (*B. glaucocarpa*) - spine at leaf bases stiff, 3-prong-

ed, 2.5cm long: leaves 2.5 - 6cm long, with apical spine, and 2-8 spine-tipped teeth along each margin, rarely without marginal teeth.

DARWIN'S BARBERRY (*B. darwinii*) - spine at leaf bases small, broad-based, 3-7 pronged, 3-7mm long: leaves small, to 2.5cm long, leathery, upper surface dark green, lower surface light green, wedge-shaped, apex broad with 3 apical spines, margins without spiny teeth.

5. CHILEAN TARWEED (*Madia sativa*): Compositae - daisy family.

Stiffly erect annual, to 2 metres or more tall: stems and leaves glandular and clammy to touch, and with distinct smell: flowers small, yellow, daisy-like. Weed of dry situations with little competition, more frequent in Canterbury and Marlborough. Sometimes grown overseas as a crop, for an oil extracted from the fruits. (Chile).

6. CHINESE BOXTHORN (*Lycium chinense*): Solanaceae - nightshade family.

Spreading shrub with long, leafy, arching branches. Differs from the gazetted boxthorn (*L. ferocissimum*) in the larger leaves and absence of rigid spiny branchlets: soft non-spiny branchlets often present: flowers purplish, berries orange-red to scarlet. Formerly used as an ornamental and for hedging, scattered shrubs now persist on roadsides, in waste land, and rough gullies. Bird dispersed. (East Asia).

7. CHINESE PENNISETUM (*Pennisetum alopecuroides*): Gramineae - grass family.

Erect tufted perennial to 1.25 metres tall, heads dense, cylindrical, to 20cm long, purple-tinged. A troublesome colony-forming garden escape, local in occurrence in Marlborough and Nelson. (China).

8. CLAMMY GOOSEFOOT (*Chenopodium pumilio*): Chenopodiaceae - beetroot and fathen family.

Prostrate and mat-forming, or straggling annual, leaves small, glandular and clammy to touch: flowers minute, green, seeds numerous. Plants with distinct smell. Widely occurring weed of dry waste land, poor pasture, cultivated land, and domestic gardens: sometimes a nuisance in lucerne crops. (Australia)

9. CLIMBING DOCK (*Rumex sagittatus*): Polygonaceae - dock and willow weed family.

Vigorous climbing or scrambling perennial with extensive rhizome system with many large brown tubers (with characteristic concentric ring-like markings). Introduced into Australia and elsewhere for the tubers which have been used as a substitute for the true yam; into other countries, and probably New Zealand, as an ornamental creeper grown for the large heads of fruits with conspicuous blood-red wings. A troublesome, smothering weed in waste land, domestic gardens and hedges, orchards, and roadsides. Thoroughly established in many parts of the North Island, and now spreading in Nelson and Marlborough (South Africa).

This series, which involves some 22 species, will be continued in the February issue next year.....

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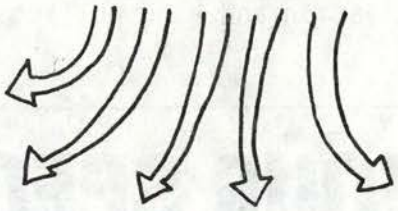
NOOGOORA BURR SPREADING



NOOGOORA BURR, a weed found on a Matamata farm about two and a half years ago, has spread onto another farm.

This is in spite of Matamata County Council's efforts to clear the weed.

The first sighting of the plant was on a farm in Station Road, and the second sighting is in a maize crop on Matai Road. It is the first time this weed has been seen in New Zealand.

The county has reapplied to have Noogoora Burr declared as a class B noxious weed.

County noxious plants officer, Ray Iremonger, said the county had applied once before, in September 1981, but had never heard back from the Noxious Plants Council.

He said the county wanted it classed as a noxious plant under the Noxious Plants Act so that the county could take legal measures to have the weed cleared should it appear on land owned by an unco-operative farmer.

Mr Iremonger said the two farmers on whose land the weed has appeared were doing their best to keep it controlled.

"Luckily they are people that are concerned about weeds but if the weed gets onto a property where the farmer does not care, there could be problems if we can't legally force him to clear."

Mr Iremonger said Noogoora Burr had two seeds, one of which germinated the following year and one which could germinate at any stage. It was the second seed that was causing the problems because it was extremely hardy and could last in the soil for some time.

(MATAMATA CHRONICLE 22-9-83)

FIVE CASES FOUND

FIVE INFESTATIONS OF noogoora burr have been found in the Matamata area.

The burr, a summer growing weed, was originally found in New Zealand two and a half years ago and is presumed to have come from Australia.

Mr Tass Kolovos, a field officer with the Ministry of Agriculture and Fisheries in Matamata, said Matamata was the only place in New Zealand where the burr had been found.

"Maize cropping is common in all instances of burr infestation," Mr Kolovos said. "When established, the burr reduces pasture and crop yields. Faults in wool caused by noogoora burr increases wool processing costs and lowers returns to the grower."

The burr is a summer growing annual which can grow to 2.5 metres in height; it competes strongly with maize.

"At the moment, chemical control in maize is not possible," Mr Kolovos said. "Cultivation and hand pulling are the best control methods."

(GISBORNE HERALD 19-10-83)

FOUR SPECIES AID GORSE ATTACK

OF THE 94 INSECT SPECIES known to attack gorse in Europe, only 16 appear sufficiently host specific to show promise for introduction into New Zealand as biological control agents.

This was revealed by DSIR entomoligst, Dr R.L. Hill, in a paper delivered to the annual conference of the New Zealand Weed and Pest Control Society in August.

Dr Hill said 78 of the insect and mite species which had been recorded as feeding on gorse were not considered safe biological control agents because their host-range was too wide.

Of the 16 species sufficiently host specific to warrant further research, 5 attacked reproductive structures and 11 fed on green shoots.

Dr Hill said 4 species of insects had been chosen for research as possible biological control agents for gorse in New Zealand.

The first of these the red mite. Tetranychus Lintearius, was the only species which had been observed to kill gorse bushes. It formed large colonies which moved about the bush causing severe bronzing.

Heavy infestations caused the death of whole branches, produced very heavy webbing over the remainder of the bush, and on occasions killed whole gorse plants.

"Initial safety tests suggest that this species is entirely host specific to gorse, but its close relationship with 2 spotted mites necessitates further careful study before it can be introduced into New Zealand." Dr Hill said.

The second possibility was caterpillars of Agonopterix ulicetella. These infested new meristems at the onset of growth and could often kill new shoots entirely.

A population of this species was being kept in guarantine in New Zealand for final assessment of host range. If these results proved favourable, releases would be made in 1983-84.

Dr Hill said another species, Dictyonota Strichnocera, was also being held in quarantine in New Zealand for final assessment. Subject to further host-testing it could be released next year.

"This species is normally very host specific, and tests in Britain suggest that it is restricted to gorse," he said.

The last species, Apion scutellare, laid eggs in gorse stems and the hatching larvae produced pea-like galls on the shoot.

"This species is of particular importance because attack is almost restricted to stems regrowing from gorse crowns after physical damage or fire," Dr Hill said.

"The impact of this galling on plant growth is not known, but it may restrict the vigour of regrowth which follows most existing control methods."

(DAILY POST (Rotorua) 11-8-83)

GOATS RUE TO BE ELIMINATED

APPROVAL HAS BEEN GRANTED for a programme to eliminate the poisonous plant goats rue from the Tangahoe Valley.

The Hawera District Noxious Plants Authority heard at its meeting in November that the project would receive a 50% subsidy from the Noxious Plants Council and that the Council was considering classifying goats rue as a noxious plant.

Chairman, Mr Dave Johnson said some farmers had said the problem was more advanced this year than in other years.

Property owners along the Tangahoe River will be notified that an inspection will be carried out and the weed eradicated by the most appropriate method.

Most of the farmers concerned had already agreed to participate in the scheme although some wanted to do the work themselves, Mr Johnson said.

Those who take part will only pay 50% of the labour and chemical costs.

The board discussed whether to give the farmers who treated the weed themselves a subsidy on the chemical.

"We've got to give them some consideration," Mr Johnson said.

Mr Trevor Bailey said the authority should disregard them.

"They won't come in on the scheme, they don't deserve any subsidy," he said.

They agreed to deal with that problem as it arose.

Eleven farmers were participating in a helicopter spraying programme for gorse, noxious plants officer Mr Hans Burgisser said.

Those he had spoken to were very happy with it, he said.

The authority decided to investigate the possibility of purchasing chemicals in bulk and supplying them to farmers who participated in schemes such as the gorse spraying programme.

Mr Noel Johnston said he thought a change in the law made it possible for councils to do this.

It was decided to find out if this was the case.

(TARANAKI HERALD 10-11-83)

OFFICIAL REASSURANCES NOT ENOUGH?

WHEN VICTORIA, AUSTRALIA, imposed a complete ban on 2,4,5-T spraying last year, New Zealand's Health Department said there was always the possibility that the ban might be politically, and not scientifically, motivated. The department noted that 75 percent of the 2,4,5-T used in New Zealand was sprayed from the air, but amount of dioxin in the chemical was less than one-tenth of that legally permitted in this country.

The department's distaste for hysteria is understandable. Its views on 2,4,5-T are reassuring. But it may need reminding that the public has a right to the most exhaustive reassurances in a matter like this. Bland official reassurances are not enough.

(CHRISTCHURCH STAR 27-10-83)

P.E.P. PLAN REJECTED

THE CLUTHA COUNTY COUNCIL attempt to institute a noxious weed spraying programme using Project Employment Programme Workers has fallen through because of an objection from chemical spray operators.

The Clutha County Council applied to the Labour Department to begin this programme in early September but was refused permission because of the objection from local contractors.

The Council then received a circular from the Noxious Plants Council stating that the Department of Labour has now authorised the use of hand-held spraying equipment by PEP workers employed on noxious plants eradication or control work.

The county clerk, Mr A.C. Duncan, sent the department a copy of the circular and received a reply this week. The department accepted this agreement but was rejecting the Clutha project because of the objections from contractors.

Copies of the letter will also be sent to the Minister of Labour, The Hon J.B. Bolger, and the member of Parliament for Clutha, Mr R.M. Gray, will be approached on the matter.

(OTAGO DAILY TIMES 14-10-83)

"TRUISM" You are not able to lose pounds by talking about it. You must keep your mouth shut.

PLAN NEEDED

'THE NORTHERNER'
11 Nov., 1983

FARMERS WHO believe that dealing with gorse involves simply spraying it at the right time, burning it off at the right time and then forgetting it are not getting the best from their brush control expenditure nor farming with the future in mind, Shell Chemical's Northern Region Manager, Peter Marsh said recently.

"Dealing with gorse requires a management plan - preferably a written one - which takes into account all the management techniques which will provide the best result," he said.

"Having decided on the right time to spray, the plan should give target dates for burning off, planting the new pasture species in the area, following up with subdivision and break fencing and providing a plan of stock management for the area, and including a full expenditure budget.

"Timing is an important aspect of dealing with the problem. Spraying may be in the later spring/early summer so that you get a good brown-out. Burning off can come in the late summer, followed by the establishment of the new pasture within 10-12 weeks of burning. The programme must include subdivision and break fencing so you can control stock so when they've grazed out the pasture you can get quick pasture regrowth and consequently smother out any seedling gorse regrowth.

"With Shell's 'Broadside' there is no need to wait for up to 18 months as with some other products, before clover can be established. Six months at most is all that is required for clover establishment and that means that previously useless, gorse-covered, land can be brought quickly into production to give a return on the investment. The most expensive formulation is not necessarily the best when you look at it in terms of a quick and effective kill and a fast return on investment," Mr Marsh said. "'Broadside' offers significant economies."

"Anyone who is not familiar with the sort of management system required to control gorse and other brushweeds effectively should speak to their farm adviser, noxious plants officers or Shell Agriculture representative. Before even comitting themselves to spraying we cannot emphasise too strongly the importance of having a planned, written, programme."

Some users seem to feel that the approach is to treat gorse one year and then come back the next year and re-treat it. If they follow the planned approach then the only respraying that should be necessary is a little spot cleaning up work to deal with the seedling growth that has occurred since the original treatment, and that the stock has not managed to deal with.

"Periodic mob stocking is essential in order to deal with the seedling re-growth when the pasture comes away and smothers out the gorse regrowth. But stock rates can only be kept high if correct fencing strategies are used including maximum use of electric fencing. Grazing management techniques are the key.

Shell's new brushkiller, 'Broadside', is an octyl ester formulation of 2,4,5-T which has been shown to have better translocation properties than standard, butyl ester formulations. Without some of the complex and expensive additives used in some other brushkillers, 'Broadside' is less expensive and enables clover to be

established within six months rather than the 18 months required after treatment with some other products.

While gorse is the main target, 'Broadside' is also effective in the treatment of blackberry, broom, and other woody brushweed species.

Gorse is best controlled from October to March when it is actively growing. Treatment is in full leaf from petal fall to early fruit formation in the summer or early autumn. Broom can be treated from spring to early autumn for best effect. Other woody species should be treated during the periods of active growth.

"As with any agricultural chemical, full details are given on the label and we would urge farmers to ensure they read the label first," Peter Marsh said.

'Good turn' kills goat

By BRENT REID

DANNEVIRKE County Council workmen who thought they were doing a farmer a good turn by spraying a strip of blackberry along a boundary fence,have caused the death of a top-producing dairy goat.

Ms Kim Kuzmich, who runs more than 20 milk-producing goats on her 20-hectare property near the small southern Hawke's Bay township of Norsewood, said the two-year -old goat which died was valued at $1,000. It was not insured.

She said the goat, by an imported buck, died in agony about 24 hours after eating the blackberry which had been sprayed with a combination of toxic chemicals.

Dannevirke County Clerk Tony Rogers said workmen were spraying moss and weeds on a footpath adjacent to Ms Kuzmich's farm.

"They also sprayed the blackberry thinking they were doing her a good turn; but it backfired."

Ms Kuzmich said 12 other goats who ate blackberry and grass along the fence had been affected. Milk production dropped dramatically for about a week. "I suppose I lost 250 litres during that time."

Ms Kuzmich said she was fearful that the poisoning could have caused permanent damage to the lining of the goats' stomachs which would affect their ability to produce milk. Most of the milk is sold to women with young babies.

Ms Kuzmich who moved to her farm from a smaller property about 18 months ago, said losing a goat and milk production could not have come at a worst time.

"I have a rural bank loan and lots of bills to pay." She had also spent $1,000 on a new milking shed.

(THE DOMINION, Wellington : 24-11-83)

Chemical applicators risking their health

THE CONTRACTOR
November 1983

CHEMICAL applicators are risking their health, and possibly their lives, by using highly toxic chemicals without bothering to take advantage of a medical protection scheme.

Details of the scheme were publicised in the August issue of this magazine. But the publicity has produced virtually no response from applicators. And the Contracting Industry Training Council, the Medic-Alert Foundation and the Health Department are worried.

The highly toxic chemicals are organo-phosphates and carbamates, which are used largely in insecticides. The risk they pose is that they can be absorbed through the skin, inhaled or, more unlikely, accidentally swallowed.

Effects from the chemicals show up in reduced cholinesterase levels in the blood – which is where the Medic-Alert Foundation scheme comes in.

The scheme lays down that before applicators use organo-phosphates or carbamates they must have their baseline cholinesterase level established through their own doctor. This is necessary because the level between individuals varies so much – from 3000 international units up to 11,000.

Once the baseline level is established and recorded, regular monitoring can detect any effects from the chemicals.

Applicators who join the scheme receive a Medic-Alert emblem which advises that the wearer is exposed to the chemicals and certain drugs should be avoided in treatment.

The drugs are set out on a wallet card along with information required to ensure appropriate and immediate medical attention after poisoning.

Without the protection of this scheme, users of organo-phosphates and carbamates are taking serious risks. The chemicals inhibit not only cholinesterase in the blood but nerve enzymes. Should an "unprotected" applicator suffering the effects of the chemicals fall and break a leg in the course of his work, he could unwittingly be given an anaesthetic – and since this also inhibits the enzymes, such an action could well prove fatal.

The risks being taken by unconcerned applicators was raised with The Contractor by a worried Mr Leo Shuker, Contracting Industry Training Council officer. He said he had received a letter from the Medic-Alert Foundation saying it was concerned at the small response from those in the industry to publicity for the foundation's protection scheme.

"In fact, there has been virtually no response, which is somewhat disappointing considering how toxic the chemicals are," Mr Shuker said.

Medic-Alert Foundation director Mr Seymour Young said the chemicals concerned were "very dangerous, very toxic" and could produce serious effects in users.

Where applicators had been using such chemicals for years they tended not to see the risks, yet a study had shown for instance, that if an aerial top dresser was spraying organo-phosphates or carbamates and crashed, rescuers would be unable to approach the crashed plane without exposing themselves to serious danger.

A toxicologist at the Department of Health, Mr John Reeve, said there had to be a 70 per cent inhibition of the nerve of blood enzymes before the danger signs of headaches, vomiting or nausea appeared. The further exposure that would then be required to cause death was quite small.

The Health Department had been running a scheme for six months to convince contractors of the need to take precautions. The scheme would run for two years.

"What we are trying to do is to catch them before they get ill," Mr Reeve said.

Tests conducted by the department in Nelson and Rotorua showed that up to 28 per cent of the chemical users had experienced what could have been the initial toxic symptoms.

In Rotorua blood tests taken over two years had shown that in the first year there were a number of users showing symptons but that in the second year, after the demonstrated need for precautions, there were none.

Footnote: The Medic-Alert Foundation's postal address is PO Box 40 028, Upper Hutt.

Eradication Grant Made

THE MARINE DIVISION of the Ministry of Transport has given $4,000 to the Silverpeaks Combined District Noxious Plants Authority towards eradication of the noxious grass spartina townsendii in the Merton Estuary.

The Division has made several allocations during the past few years to the Authority towards the clearing of the estuary, but the latest grant has been the most significant yet, according to the Chairman, Mr W.B. Stevenson.

Spartina townsendii is a grass which grows in soft mud, and spreads very quickly. Mr Stevenson said the affected area in the estuary, (12km south-west of Waikouait) covers about 10ha.

A helicopter will be used to chemically spray the area during the first week of March next year. A water right will have to be gained by the Authority from the Otago Catchment Board, for the work to proceed.

The area will be resprayed in November next year with the work being done by Wildlife Service. The initial work will be by the Authority.

Mr Stevenson said in the past it had been "a waste of time" trying to do much in the area at low tide, the only time possible for eradication.

He said the weed is one which needs to be "flushed out rapidly" - otherwise it beccmes "more of a nuisance."

(THE OTAGO DAILY TIMES : 17-11-83)

"Free air, sir? Certainly . . ."

MAP AND REGISTER TO HELP SPRAYERS

WAIKOHU COUNTY COUNCIL has come up with a map and register to help people involved in spraying operations to identify horticultural sites before spraying.

There are several horticultural crops, some in quite large areas, planted in the county which are susceptible to spray damage.

And while specific care is needed with the application of hormone chemicals the Pesticides Regulations 1983 now include all chemicals.

Now every person commits an offence against these regulations who applies or causes to be applied any herbicide in such a reckless manner that damage results to any property other than that on which it was applied or intended for.

The application of pesticides toxic to bees is also covered in the new legislation.

Waikohu County has 66 hectares of grapes, 107 hectares of kiwifruit, 16 hectares of citrus, six hectares of stone fruit and 4.06 hectares of other horticulture.

While the register is intended only as a guide, county noxious plants officer, Mr Rob McGuinness says the map has been distributed to all spray operators and other organisations and firms who might find it of value.

He thinks the register is particularly important in view of the new spraying regulations, and that it should be a valuable guide for operators.

(GISBORNE HERALD 19-10-83)

WORK APLENTY FOR COUNTY WEED GANG

A GROUP OF 10 girls has begun work grubbing thistles on properties in Matamata County.

This is the first Project Employment Programme weed clearing scheme the county has run for about 18 months because it has not been able to get permission from the Labour Department to run a weed spraying gang.

During 1981 the county council ran two six month programmes consecutively with 10 girls in each programme.

The girls were employed to spray noxious weeds on problem farms in the county at the farmers' expense.

At the end of 1981 the Labour Department refused to approve a third scheme because the department claimed the spraying gangs were taking work away from spraying contractors.

Recently the county has approved a chipping and grubbing gang.

Noxious plants officer, Mr Ray Iremonger, said the county had no trouble filling the 10 positions on the gang, although of 18 referrals from the Labour Department, only nine turned up for an interview.

The 10th place was taken up by another unemployed person who was not on the original list of referrals.

Mr Iremonger said he had enough work lined up for the girls to keep them busy at least until Christmas.

The work will be done on a first come first serve basis - farmers with their names on the top of the list will receive the girls first.

At present there are over 90 names on the last, Mr Iremonger said.

(MATAMATA CHRONICLE 19-9-83)

CARE NEEDED NEAR WATER

TO ENSURE THE SUCCESSFUL control of weeds growing in or near water courses, herbicides must be selected with extreme care.

"The side-effects of the chosen chemical must also be carefully considered when using herbicides for weed control," according to Dr Ian Popay from the Agricultural Research Division of the Ministry of Agriculture and Fisheries in Palmerston North.

Herbicides are chemical compounds used to kill or reduce the growth of plants.

Some are non-selective and act on many plants while others are selective and affect certain species only.

"When selecting a herbicide for use on weeds growing in or near water-courses, it is important to decide whether the herbicide is likely to control the weeds present. It is also necessary to consider what side-effects it may have if it contaminates the water," said Dr Popay.

"Water containing herbicides could be toxic to desirable plant species growing down-stream and could also be poisonous to fish, livestock and humans.

"Considerations of water quality are often more important than whether a weed gets killed or not. For this reason there are restrictions on the use of herbicides near water-courses.

Another important consideration is the type of weed you are dealing with. Dr Popay pointed to four broad types in terms of habitat.

These are submerged weeds, emergent or floating weeds, ditch bank weeds and those found in dry drains, ditches and irrigation channels.

Within each of these habitats exist a variety of species, said Dr Popay. This must be taken into account when selecting a herbicide, although for submerged weeds there are very few options.

Dr Popay advised that submerged weeds, such as algae in farm ponds, troughs and swimming pools, can be treated with simazine. In irrigation channels, copper sulphate can be used. In both cases care must be taken not to use the chemicals excessively.

In other situations diquat or paraquat may be broadcast from a mobile platform or may be injected below the water surface by divers. Water rights are needed for the use of these methods, he said.

(WAIRARAPA TIMES AGE 24-8-83)

URGENT CONTROL NEEDED

THE SOUTHLAND COUNTY COUNCIL does not know whether it is oilseed rape or wild turnip, but was unanimous at October's council meeting that the weed which has suddenly cropped up on State Highways in the county must urgently be controlled.

Discussion of this weed, which is flowering on the verges of State Highways between Pukerau and Invercargill, was not on October's special council meeting agenda.

However, Cr W.M. McKee, asked that the subject be discussed because he was concerned about the possible spread of the weeds, if they were not eradicated before they seeded.

"While we are debating, it is growing. We need to take some short cuts," Cr McKee said.

The county chairman, Mr C.E. Bowmar shared Cr McKee's concern about the weed.

He was worried it could spread on highly fertile soil and become a threat to pastoral and horticultural farming.

Mr Bowmar said it was likely if the weed was oilseed rape it had landed on the roadsides because of the carelessness of people carrying the seed of the South Oil processing plant at Awarua.

According to the council's senior noxious plants officer, Mr K.J. Crothers, it was not possible to identify the weed, and samples had been sent to the DSIR for analysis.

Either of these plants on roadsides would be of concern.

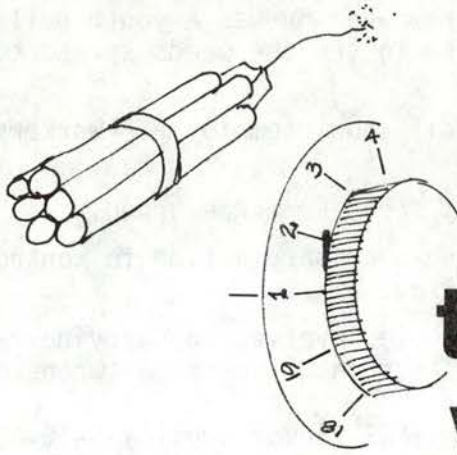
However, because neither was listed as a noxious plant, the council had no power to ask people to clear them.

He said the council would be fighting a losing battle to try to get the plant listed and action taken in the next five months.

BEFORE SEED

He also said there was no way the Ministry of Works and Development would do anything about the problem in time to stop the plants seeding.

"Instead of eradication, we have to look at controlling the weeds," he said.



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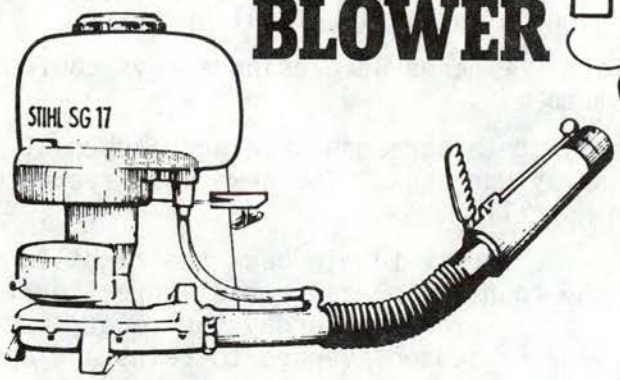

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Mr Bowmar said he remembered spending many hours, when he was a youth pulling out wild turnip plants. He said he would not like to see the weeds spread to the extent they had in the past.

This prompted Cr J.P. Casey to suggest the council should employ PEP workers to pull out the weeds before they seeded.

"Let's not get into red tape and let this stuff seed" Cr McKee urged.

The council decided to let its officers take the necessary action to control the problem effectively during the three weeks following.

The council will also write to South Oil and people involved in carrying rape seeds, seeking their co-operation to prevent the accidental spread of weeds on roadsides.

(SOUTHLAND TIMES (Invercargill) 5-10-83)

SPRAY BAN LIFT?

JUST WHEN A LONG running battle by Taupo County to bring back spray application into its project employment programme looked lost there was a surprise announcement in September.

More than 18 months ago the Contractors Federation was successful in getting a ban imposed on local bodies having PEP gangs using agricultural sprays.

Contractors were concerned that the fact PEP gangs were using sprays could affect their livelihood in taking jobs from them.

The federation has now relented and subject to agreements being reached at local levels will be given the okay to bring spray use back. The news was greeted with delight by Taupo County Clerk, Mr Colin Morrell.

Looking back on a vigorous campaign by the county to win back the right to spray, Mr Morrell said he would like to think the county's pressure had a great deal to do with the ban lift but it was hard to say. Before yesterday the county had come to dead-end situation on the issue and exhausted avenues to reinstate spraying.

The battle against the ban produced many deadlocked meetings between the council, contractors officials and Federated Farmers. County Chairman Mr Murray Black had approached Labour Minister Mr Jim Bolger on the matter and representations were also made to Taupo MP Roger McClay.

As an alternative to spraying the county had to revert to having weeds pulled and cut.

This "grubbing" method was much slower and less effective than spraying, Mr Morrell said.

The big worry for the county has been nodding thistle. By using sprays the gangs, which are hired out to farmers, were getting some sort of control, Mr Morrell said. But since the ban the situation has slipped back badly and many farmers are worried about the present state of noxious weeds.

Mr Morrell said PEP workers will only be doing follow-up spray work and initial spraying was still the job of the contractors. He said as far as the county is aware there is a shortage of contractors, with only one resident at Taupo, and farmers were having great difficulty in getting follow-up spraying done.

The maximum number of people employed on the old spraying scheme was 36, with a majority coming from Tokoroa. If the county gets the green light on spraying - and there is good reason to believe it will - grubbing will probably take second place.

For Matamata County there has been less concern about the spray ban because grubbing has been an efficient enough method to control weeds in its particular area.

(SOUTH WAIKATO NEWS 27-9-83)

UPDATE Agreement was reached in November between the Chemical Applicators' Section of the Contractors Federation, the Taupo County and the appropriate division of Federated Farmers, for knapsack spraying by P.E.P. workers to resume in the Taupo County.

However, the criteria for participation is somewhat more complex than in the past. An applicant must supply details of the previous and present seasons' noxious plants control programme, including a detailed map of his property showing areas where initial work has been done and where he wants P.E.P. assistance. Where applications are received some time before work being done, the map would be returned to the applicant for an update.

When applications are approved by the County, the names are put in a register, along with brief details of how initial work was done and what amount of P.E.P. work has been assigned. This register is then perused by a representative of the Contractor's Fed. for possible objections. No objections, the register is signed and work proceeds. Should there be an objection, which can't be resolved between the representative and the N.P.O., then the matter is referred to a Disputes' Committee made up of representatives from the County, Contractors' Fed and Federated Farmers.

It is hoped that grubbing gangs presently operated throughout the Taupo County (2) will soon convert over to spraying.

It is stressed that the work they do will not be of a routine nature but they will be assisting those farmers with a serious weed problem and who, despite doing all in their power, are not getting on top of it. Assistance will also be given to farmers who have weed problems on areas which are inaccessible to conventional means of weed control.

It would appear, in a case like this where agreement has been reached between the parties concerned, that close liaison between county and contractors (contractor in the case of Taupo) is essential. One hicc- in the system and the whole thing could go down the drain, to be washed out to sea and never seen again.

And that would be a shame.

CARE WITH HERBICIDES ESSENTIAL

This is the first in a series of three articles prepared for the Evening Mail by the Waimea Senior Noxious Plants Officer, Mr Graham Strickett, on herbicides, machinery and equipment, calibration, maintenance and the disposal of weeds in residential areas.

HERBICIDES PLAY a major role in the farming scene for either weed and pest control or noxious plant control.

The application of chemicals should be viewed with great care to ensure that the intended operation is economically worthwhile and that no target species are not endangered by the operation.

I do not need to emphasise the current controversy on the use of 2,4,5-T other than to say that for this country to remove chemicals such as 2,4,5-T without providing another that can compare with cost and use we are all in for drastic repercussions.

The manufacturer formulates the chemicals so that they are convenient for application. It is the users' task to see that they are properly applied. To do this we must take the following steps:

(a) Check that it is permissable to apply the materials.

(b) Know how much to apply.

(c) If mixing is necessary, calculate how to mix the material so that the correct quantity is applied.

(d) Check that the mixture is in a suitable form for spraying.

(e) Spread the material evenly and in such a manner that drift or health hazards are reduced to a minimum.

Before diluting to the concentration required for application, check the following points:

(a) That the correct dilutent is to be used.

And after mixing:

(a) If a water-soluable powder is used see that there is no undissolved material in the spray tank. The solution should be clear.

(b) See that wettable powders are evenly suspended. There should be no lumps of material in the tank.

(c) Diluted emulsifiable concentrates should be homogenous. See that there is no settling out into layers of liquids.

Damage to susceptible crops through drift of dusts and sprays is more likely and usually more severe than damage caused by volatile fumes.

The extent of draft is governed by environment conditions at the time of application, for example, wind speed, temperature, relative humidity, and convection currents.

Subject to these conditions the decreasing order of tendency to drift to the various formulations is:

(a) Dusts.

(b) Non-aquueous solutions.

(c) Emulsions (oil in water).

(d) Water solutions.

(e) Invert emulsions (water in oil).

(f) Pellets.

Dusts and non-aqueous solutions are more prone to drift, and as herbicides the use of these formulations is subject to greater restrictions under the Agricultural Chemicals Regulations than other formulations.

All of the esters of hormone weedkillers are volatile to some extent. This means fumes of toxic material may be given off after spraying and could drift and cause damage to nearby susceptible plants.

Damage caused by toxic fumes is rare, however, but can occur if the more volatile esters are used under hot, still, humid conditions close to vineyards. The volatile esters are the ethyl and butyl esters of 2,4-D and the butyl ester of 2,4,5-T, and a clear indication that these esters are volatile appears on the label.

The volatility of the other esters and other hormone formulations is comparatively low. These esters are usually labelled 'low volatile'.

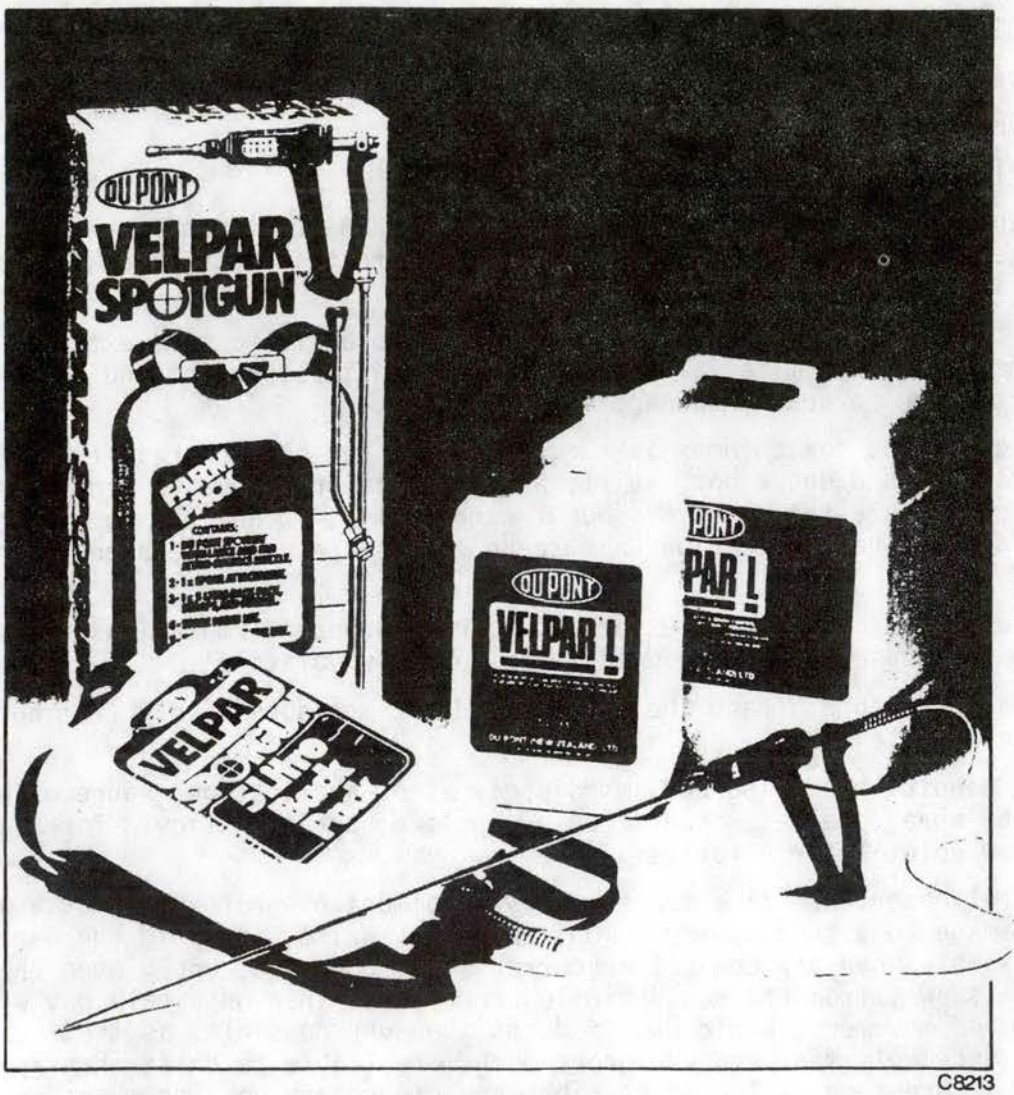
Three basic factors affect the extent of drift residues likely from agricultural chemical applications:

Weather conditions during and immediately after application; range of particle size in the spray; pellet, or dust being applied; spraying liquid formulations - whether low volatile or volatile.

By careful observance of a few simple yet commonsense rules you may avoid serious damage to a third party. To reduce spray drift, spray in the early morning if possible when air convection currents are downward; apply when the wind direction is away from the susceptibile crop rather than on a calm day with indecisive wind movement; avoid use of dusts whenever possible, as their particle sizes are extremely fine and therefore much more liable to drift than sprays or pellets; use pressure as low as possible and use coarse nozzles where practicable; make sure nozzles are the correct height above the ground. A covered nozzle may be necessary in certain situations; when gun spraying, spray close to the bush - not 5m away; choose a dull day for spraying rather than a hot, dry day; use a low-volatile formulation rather than a volatile material.

(NELSON EVENING MAIL 5-11-8)

EFFECTIVELY CONTROLS ISOLATED BRUSHWEEDS.



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Velpar Liquid is a highly effective brush killer for use in a variety of applications. Together with the Du Pont Spotgun it has been developed specifically for New Zealand farming conditions as an ideal method of treating sparse populations of troublesome brushweeds.

ADVANTAGES:

- Controls a wide variety of isolated brushweeds (see chart).
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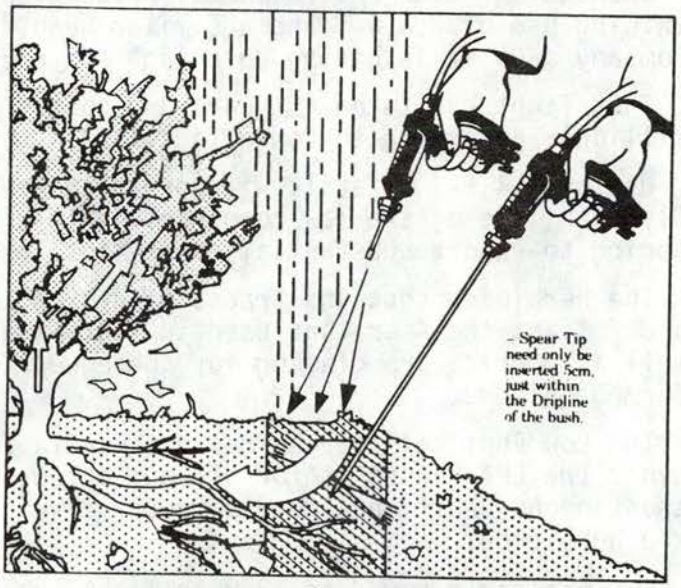
- Fast. One man can do the work of three using conventional methods.
- Economical. Because the Du Pont Spotgun delivers accurate doses this increases the efficiency of Velpar Liquid. The unique application methods also mean there's no waste, no spray drift and minimum pasture damage.
- Tested and proven. Since 1976 Velpar Liquid and the Du Pont Spotgun system has been used effectively throughout New Zealand.
- Low capital investment. No need for pump, vehicle, hose, tank, etc.



▲ Du Pont Spotgun™ on-surface nozzle for flat ground. Spear for sloping ground to minimize run-off.

Velpar Liquid/Dose Rate Table

	WEED SPECIES	0-1 Metre Height	1-2 Metre Height	For Larger Bushes
Easy To Kill	Ragwort	2-4ml	–	8 mls per metre within the dripline around bush
	Woolly Nightshade	4 ml	8 ml	
	Tauhinu	4 ml	8 ml	
	Blackberry	4 ml	8 ml	
Harder To Kill	Sweet Briar	4 ml	8 ml	8 mls per metre within the dripline around bush
	Boxthorn	4 ml	8 ml	
	Hawthorn	4 ml	8 ml	
	Seedling Gorse	4 ml	–	NOT RECOMMENDED
	Seedling Broom	4 ml	–	
	Barberry Suggested Rates	4 ml	8 ml	
	Privet Suggested Rates	4 ml	8 ml	

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Agrichemicals

TOTAL BAN ON 2,4,5-T;
DOW GIVES UP FIGHT

WASHINGTON - The Environmental Protection Agency is taking steps to ban all remaining use of 2,4,5-T and a similar herbicide, Silvex, and the Dow Chemicals Company says it is giving up a fight to have restrictions removed.

That fight has taken 4½ years and cost the giant company US$15 million (NZ$22.5 million), according to Dow officials.

Use of 2,4,5-T is still widespread in New Zealand, and Ivon Watkins Dow in New Plymouth, one of the few companies world-wide still manufacturing it, had been hoping to export substantial quantities soon to the United States.

The herbicide contains traces of dioxin, which was also present in Agent Orange, a defoliant the Americans used in Vietnam and which veterans in New Zealand as well as America are blaming for subsequent health problems and the birth of malformed children.

The Dow Chemical Company has not manufactured 2,4,5-T in the United States since the EPA banned it for all but a few uses in March, 1979, after ruling that spontaneous abortions among a group of women in Oregon appeared to be linked to the herbicide.

Dow officials vowed in 1979 to fight the partial ban until it was overturned.

Dow's vice president for agricultural products, Mr Keith McKennon, said at the weekend that the decision to abondon the fight was based purely on business reasons.

"The great weight of scientific evidence confirms that 2,4,5-T can be used safely without undue risk to people or the environment," he said.

The partial ban caught Dow with a stockpile that had just been depleted, he said.

Negotiations between Dow and the EPA have been continuing for a long time, and agreement for expanded use was confidently expected at the start of this year, but kept getting delayed.

Reaction from environmental groups was ecstatic.

"For diehards to throw in the towel is a real eyeopener," Maureen Hinkle, an official with the Audubon Society, told the Washington Post, "It's shocking - breath-taking."

(OTAGO DAILY TIMES 17-10-83)

"TRUISMS" The exercise that probably does you the least good of any type, is patting yourself on the back.

A pinch of probably is worth a pound of perhaps.

NZ 245T Called:

"A THREAT TO THE WORLD."

NEW ZEALAND IS "an island of insanity" as the last remaining country manufacturing the herbicide 2,4,5-T according to a leading British trade unionist.

"While anyone is making it the world is at risk. We are worried about that New Zealand loophole," Mr Chris Kaufman, editor of "Landworker," the magazine of the Agricultural and Allied Workers Trade Group of the Transport and General Workera Union said in London.

"They say there is not enough manufactured there to export but we are worried that they might try to smuggle 2,4,5-T from New Zealand into Britain.

"If they tried to extend the production there would be a worldwide outcry. We'll be keeping close tabs on it. Organised workers have been alerted not to handle 2,4,5-T coming into the country, but it's very difficult to detect it coming in with other chemicals."

It was last month that the Dow Chemical Company announced in New York that it was giving up its US$10 million fight to continue marketing 2,4,5-T. The American Environmental Protection Agency, commending Dow for its corporate statesmanship, "took the occasion to announce that it would soon ban the sale of 2,4,5-T by other manufacturers.

A "Landworker" investigation, headed by Mr Kaufman who has also written a book about 2,4,5-T called "Portrait of a Poison," disclosed that New Zealand was now the only country in the world manufacturing the herbicide.

The New Zealand manufacturer, Ivan Watkins-Dow, is a subsidiary of Dow Chemicals. Mr Kaufman said Dow Chemicals had been approached and asked why the New Zealand subsidiary was still manufacturing 2,4,5-T and the reason given was that Dow owned only half the New Zealand organisation and was not going to dictate to it what it should do.

"They also said that it was not made for export in New Zealand", Mr Kaufman said. His organisation, he added, was in agreement with New Zealand trade unionists and environmental groups in their opposition to the herbicide.

He said those against the use of the herbicide tended to draw cases together to show that correlations between the use of it and negative effects were "too much of a coincidence." The opposite view was to take such cases apart.

EXTREMISTS

"I can understand people who call us extremists but our responsibility is to look after the health of our union members," he said. Mr Kaufman said pressure in Britain against the herbicide had been spearheaded by the Agricultural and Allied Workers' Trade Group.

The British Government, however, still maintains that 2,4,5-T is safe, unlike their counterparts in Italy, Holland, Sweden, Japan, and the United States where its use is banned.

"2,4,5-T contains the impurity, dioxin, which is known to be the most toxic synthetic chemical on earth," Mr Kaufman said. It has been shown to cause cancer, birth deformities, miscarriages, liver damage, skin diseases and a range of other effects on experimental animals and the same effects have been seen among some human beings exposed to the weedkiller.

"That is why trade unionists here refuse to handle the chemical."

Manufacture of 2,4,5-T by the Linz plant, in Australia, finished earlier this year a few weeks after the cessation of manufacture in West Germany. Britain has not manufactured 2,4,5-T since 1976.

With these shutdowns and the Dow decision, New Zealand now remains the only point of manufacture. "I trust that common sense will prevail and they will stop manufacture there too," the leader of the Agricultural and Allied Workers' Trade Group, Mr Jack Body, said today.

"I am delighted that, apart from New Zealand, the chemical is no longer being manufactured and the workers of this country will no longer be forced to use it and will no longer have it hanging over their heads.

"New Zealand is a country in splendid isolation and will quickly realise that production must cease.

"If they attempt to send it into this country we'll take appropriate action to make sure it doesn't get here or has no outlet."

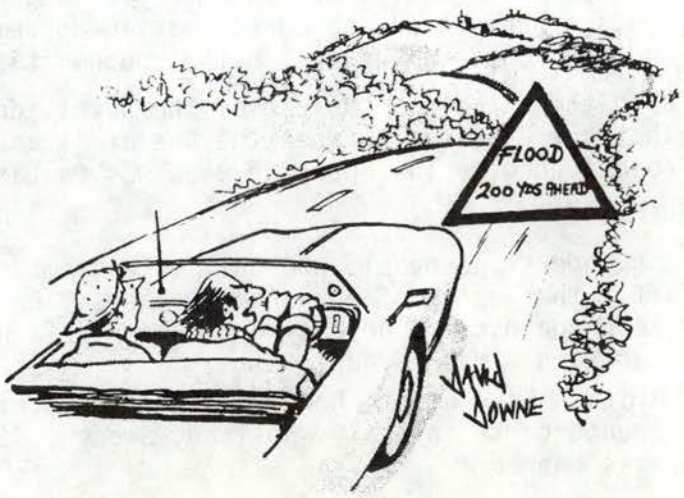
(EVENING POST 7-11-83)

HOW LONG?

Five seconds? Ten seconds? A couple of minutes?

There are some cartoons which you get straight away. With others it takes a little while before the penny drops.

This cartoon, I feel, is one of the latter.



"I don't know! Chinese restaurants seem to be cropping up everywhere nowadays . . ."

From the DISTRICT COURT

The following contains the submissions by the defendant's Solicitor and the informant's Solicitor together the Judge's reserved decisions on two court cases taken by the Rangitikei District Noxious Plants Authority.

The first deals with Public Notification and the second with the rejection of an Appeal.

The Rangitikei County Council has kindly made this material available for publication in the belief that it could be useful to other Authorities and Noxious Plants Officers.

CASE #1

IN THE DISTRICT COURT HELD AT MARTON

PRELIMINARY SUBMISSIONS FOR DEFENDANT

1. GENERAL

S.51(5) Noxious Plants Act 1978: Person who fails to comply with notice commits offence.

Not an offence to occupy land with Class B plants unless a notice has been served.

Notice is the critical element in the proceedings: it creates legal liability: it follows that it should be clear and should stipulate only requirements which Authority is legally entitled to impose. If notice is invalid, no legal liability can fall on occupier.

2. SERVICE OF THE NOTICE

i) Unless the occupier has knowledge of the notice, he has no opportunity to comply.

The procedure normally adopted is for Authority to inspect the land in question, make suggestions to the occupier as to control or eradication and to issue a notice and commence proceedings if no co-operation: this procedure is fair, courteous, sensible and in accordance with S.51(1) and (5).

ii) S.51(2) of the Act : notice may be served ... if to occupiers in general by public ntoice.

S.2: Public Notice ... means notice published in newspapers circulating generally in district ... of the District Authority to which subject matter of notice relates.

iii) For prosecution case to succeed, necessary for prosecution to prove that the defendant was aware of notice even if served by Public Notice:

a) S.52(1) of Act: Every person receiving a notice may appeal within 14 days of its receipt.

Appeal rights do not exist until "receipt". "Receipt" does not mean "upon being served" it means actual receipt. If Parliament intended the two phrases to be identical in meaning it would have used "upon being served" in S.52(1) as it has done in S.51(3).

b) If appeal rights do not exist until actual receipt of the notice, it is quite illogical for defendant to be prosecuted before actual receipt: otherwise, an appeal would succeed on grounds that notice was unreasonable, while prosecution would succeed on grounds that defendant had failed to comply with notice.

c) Even if above arguments are not accepted to be fair the public notice must be sufficient: i.e. must have a reasonable likelihood of being seen.

In instant case, notice published only once in only one newspaper out of four circulating in area: Notice is insufficient.

3. CONTENT OF THE NOTICE

i) The Authority's notice exceeds its jurisdiction: S.51(1) of Act: Authority may serve notice on occupier to control or eradicate Class B plants to satisfaction of an officer.

Authority's notice ; requires land to be cleared.
No reference to satisfaction of officer.
Notice is invalid as it stipulates course of conduct which authority has no power to require.

ii) The Authority's notice requires all road frontages to be cleared. Act contains no reference to road frontage ... Notice is invalid for uncertainty.

iii) S.53(3) : Sufficient description of land if notice allows no reasonable doubt as to land to which it refers.

Authority's notice fails to describe lands affected ... Notice is invalid for uncertainty.

iv) Notice is addressed to "all occupiers" and reference is made to land within the Rangitikei District Noxious Plants Authority District. Occupiers would not know whether or not notice was addressed to them unless they knew they were in that district.

District is not necessarily the same as Rangitikei County (See S.29(s) of Act).

Notice is invalid for uncertainty.

4. PURPOSE OF ACT

Public Notice followed by prosecution is contrary to spirit of Act. Preamble : An Act ... to foster a spirit of co-operation and assistance among persons adversely affected by the spread or growth of noxious plants in achieving such control.

SUBMISSIONS OF INFORMANT

May it Please Your Honour, it is respectfully submitted on behalf of the Informant :

1. The Defendant proposed to make submissions before evidence is called by the prosecution. The Informant says that the Defendant has no right to do so.

2. The information is laid pursuant to Section 13 of the Summary Proceedings Act 1957 ("The Act"), and the hearing of it is subject to the Act. This application finds parallel in the power given to a High Court Judge under Section 347 of the Crimes Act 1961. There is no corresponding section in the Act.

3. Sections 34 - 44 of the Act contain general provisions as to a hearing. Sections 60 -74 govern the procedure at the hearing. Section 67 provides that a plea must be taken. There are only two options - "guilty" and "not guilty". Section 68 provides that the Court shall convict the Defendant, or dismiss the information ... or deal with the Defendant in any manner authorised by law.

4. The jurisdiction of a District Court to hear and determine criminal matters is a statutory one. The powers of the Court must be found in an act of Parliament. Nowhere in the Act does the Defendant have the right to make preliminary submissions to prevent an Informant calling evidence to enable the Court to carry out its duty pursuant to Section 68 of the Act.

5. It is accepted that the Defendant does have a right to submit at the close of the prosecution case that there is no case to answer. If any prehearing remedy exists for the Defendant, then it may be open to him to apply to the High Court for an injunction. As an alternative, the Defendant can ask the Attorney General for a stay of proceedings under Section 77A of the Act.

6. If the Informant's submission is accepted, then the Defendant must be asked to plead. If he enters a plea of "guilty" the Informant is ready to proceed. If he enters a plea of "not guilty" the Informant asks for an adjournment for reasons given below.

7. If this Court finds that the Defendant does have a right to make preliminary submissions, then the Informant asks for an adjournment to prepare and file comprehensive submissions in answer to those contained in paragraphs 2-4 inclusive of the Defendant's preliminary submissions.

8. The Informant's Solicitor was handed a copy of those submissions at 1.30 p.m. on 7 September. Points of considerable importance to the prosecuting authority are raised. The Informant is aware of only one previously decided case, and should like time to obtain photocopies of exhibits produced at that hearing. If the Defendant's submission succeeds, it could be that a person affected by a Public Notice can simply say that he did not see its publication, and be provided with a complete defence. If that were the situation, then the only remedy open to the Noxious Plants Authorities would be statutory amendment. Before such an approach is made to Parliament, the provisions of the Noxious Plants Act 1978 must be fully argued.

Dated at Martin this 8th day of September 1982.

Counsel for the Informant.

RESERVED DECISION OF JUDGE UNWIN

The Informant in these three cases is the Noxious Plants Officer for the Rangitikei District Noxious Plants Authority. Both he and the Authority are given certain powers under The Noxious Plants Act 1978 Pursuant to Section 51(2) of the Act he caused to be published in the Wanganui Chronicle and the Rangitikei Mail a public notice. The papers were published on 31 October 1981 and 5 November 1981. The notice called on all occupiers within the Rangitikei Noxious Plants Authority to clear all road frontages of some six noxious plants by 31 December 1981.

It has been established (at least on a prima facie basis) that the defendants occupy land within the area of the Rangitikei District. It is equally clear that the road frontages of those lands were to some extent infested with gorse. Pursuant to Section 19 gorse has been declared a Class B noxious plant throughout New Zealand. This gorse was not cleared by 31 December 1981, but since the informations have been issued, appropriate action has been taken by the defendants and the lands cleared.

While not necessarily pertinent to the decision to be made, I cannot allow the opportunity to pass without expressing considerable sympathy for the plight of the farmers. In the present economic climate they seem to be beset by many problems, and I would have thought, given the present circumstances, that no great advantage would accrue by pressing on with these cases. I understand that some 2000 properties in the District were affected by the Public Notice, and there are only some 20/30 occupiers who have not complied. It appears that the Noxious Plants Authority has made a conscious decision to prosecute all occupiers who had not complied with the public notice by the specified date. While I appreciate the need to use a public notice rather than private service on the grounds of cost, one would have thought that some follow up to those individuals who may have missed the newspaper notice, would have achieved greater co-operation. As Mr Woodbridge correctly observed, the preamble to the Act includes the words "to foster a spirit of co-operation and assistance among persons affected by noxious plants."

At the conclusion of the Informant's case, Mr Woodbridge submitted that his clients had no case to answer. So far as the general facts are concerned, I am quite satisfied that a case had been made out. The sole question to be determined therefore is whether the notice is valid. I agree that the notice creates the legal liability, and if it is invalid then no conviction can follow.

Mr Woodbridge submitted that the onus was on the prosecution to prove that the public notice had come to the notice of the defendant. In fact the evidence to date shows that this happened to two of the three defendants, but I think the point should be clarified.

Section 51(2) provides for the notice to be served on a particular occupier or by a public notice if it is addressed to occupiers in general. Despite the somewhat ingenious attempts by Mr Woodbridge to distinguish Kowhai County Council v Henderson 1967 NZLR 766, I am unable to do so. It seems to me that Section 5 of the old Act is very similar to Section 51(1). In that case Mr Justice Wilson held that the public notice was effective even if it had never come to the attention of the occupier. The onus of watching for such a notification in the paper appears to fall on each occupier, and I am prepared to accept that failure to see a notice would go to mitigation of penalty. If every District Authority had to prove that

each individual had seen the Public Notice there would be no point in publishing it.

There is no real disparity between this decision and that in Fawcett v Graham 1973 I NZLR 495 where a registered letter was in fact not served. The same High Court Judge decided both cases and had no difficulty in distinguishing the facts and both results not only make sense to me but are binding on me.

To sum up, the Noxious Plants Authority can serve its notice by personal delivery, registered mail or public notice. In the first instance recourse may be had to Section 53(2) where the occupiers whereabouts are unknown. In the second instance service is deemed to have taken place when the ordinary mail is delivered, but is not effected if the registered letter is returned. In the third instance, no further action is necessary although (a) if an occupier didn't see the notice or hear about it in some way, this will go to mitigation of penalty and (b) as I have already indicated a greater spirit of co-operation and assistance would be fostered if individual notices were sent out to those in default.

In this regard, it is pertinent to point out that Parliament has insisted that a further notice be given in cases where the District Authority proposes to carry out the work itself. See Section 38(1).

I accept immediately that such a finding places a strained interpretation on Clauses 52(1). Under that section everyone has the right of appeal within 14 days after receipt of the notice. To be deemed to have seen a public notice is one thing, but to be deemed to have received it on the day it was published is quite another.

In my view the wording of Section 52(1) reflects poor draftsmanship rather than any indication that Parliament was intending to show that the public notice must be proved to have come to an occupier's notice. It is interesting to note that the Noxious Weeds Act 1950 Section 5(1) gave an occupier 14 days to appeal after service of the notice or the last notification in the newspaper.

Mr Woodridge then attacked the notice itself. He submitted:

a) It uses the word "clear" rather than "control or eradicate" as provided for in Section 51(1).

b) It does not say "to the satisfaction of an officer" as provided for in Clause 51(1).

c) It uses the description "road frontage" which he says a reasonable man would not understand.

d) It referred to "all occupiers in the Rangitaiki District Noxious Plants Authority" and people may not know in which District their land is situated.

e) The words "by the 31st December 1981" are not "within such time as may be specified".

I now deal with these points one by one.

a) The word "clear" comes from the old Act. In my view it is easier to understand than "control" or "eradicate". The evil at which the notice is aimed, is the flowering of the gorse and consequent proliferation. If an occupier was asked to control the plant he might trim it. If asked to eradicate it

he would have to dig it out by the roots. If he sprayed it or treated it he might end up doing both or neither. To the extent to which the notice does not follow the wording enshrined by Parliament the notice is unsatisfactory, and should probably read "control by clearing". My view is that the Act would be better amended by adding the word "clear".

To the extent that an occupier could be misled by the words I have considerable doubt. See Acts Interpretation Act 1924 Section 5(j).

b) The above comments apply here. I do not think that the absence of the words would prejudice an occupier or rather these defendants. But the submission does highlight the need for more personal attention by the Noxious Plants Officer. In the old Act he had to describe the work to be done. Since the new Act has made such work subject to the subjective test of an Officer's satisfaction, it seems to me he is bound to communicate with the individual occupier in one form or another.

c) In my view the words "road frontages" are in common use and should be commonly understood.

d) I have been told that each District is contained in the County boundary. In this case certain Boroughs have been added, and the area publicised some years ago. Lack of awareness of which District an occupier belonged to, could certainly be used to mitigate any penalty if not provide a defence, but I am not prepared to hold that the description renders the notice void or unreasonable. If the Authority wishes to exercise its rights with a Public Notice it would obviously be preferable to describe the areas affected more graphically to remove any doubt.

e) On a technical basis Mr Woodbridge is correct. The notice should have said "within two months of the date of publication" rather than by the 31st December 1981". Again in my view this slight deviation from the Statute is not fatal to the prosecution, because there is no way the defendant has been prejudiced or put at risk. It is interesting to see that under the old Act, the personal notice was to be "within such time" and the public notice was "before a specific date".

What we have in this case is a public notice which was heeded by the majority of occupiers in the area. When scrutinised in relation to these three individual prosecutions it reveals a number of blemishes. To the list provided by Mr Woodbridge, I can perhaps add another. These three occupiers have been enjoined to clear their road frontages of some six different Class B Noxious Plants when in fact, the only plant involved is gorse.

Obviously it would be unreasonable to prosecute an occupier who had cleared the gorse, if some ragwort was later found to have been growing at the time in question.

As I have indicated, a conviction based on the somewhat scarred Public Notice would not in my view lead to a miscarriage of justice. However, in this case I have not as yet heard from the defendants, and all I am asked to determine is whether they have a case to answer.

For the reasons given, the answer is yes, and the informations stand adjourned to 19 January 1983. In fairness to all parties I should indicate that in view

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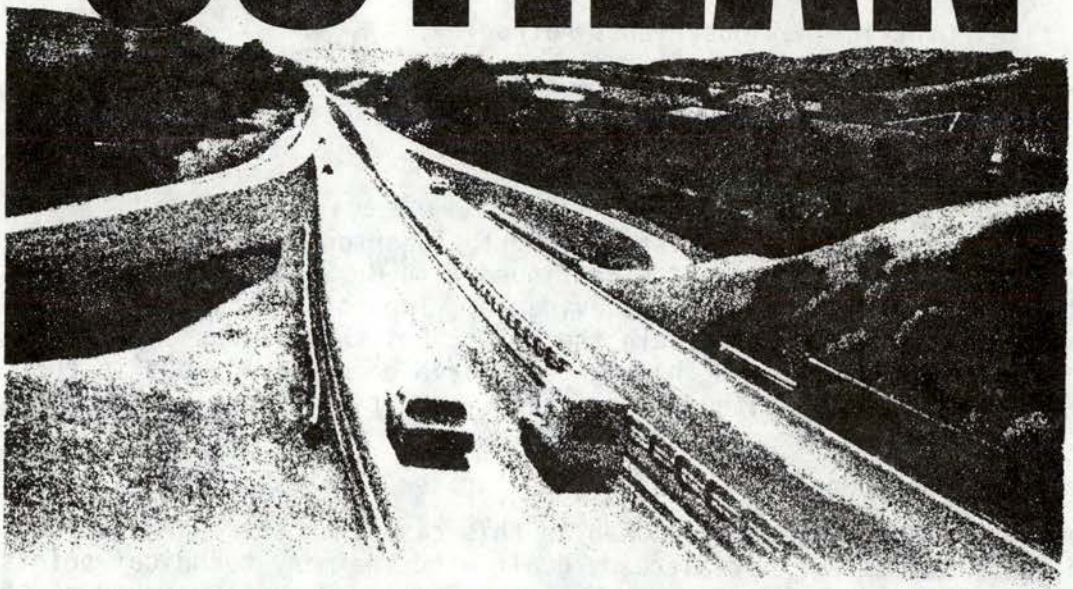

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of the comments I have made on the desirability of a personal notice, and in view of the fact that the work has been done, the likelihood of any penalty let alone conviction is extremely remote.

E.W. Unwin
District Court Judge

...and two letters from Council's Solicitor:

28 March 1983

The Secretary,
Rangitikei District Noxious Plants Authority,
P. O. Box 22,
MARTON

Dear Sir,

PROSECUTION - W.I. W

We write to confirm in the District Court at Marton on 25 March 1983 before Judge E.W. Unwin, the prosecution continued with Mr Woodbridge calling both the Defendant and his son J.W. to give evidence. They stated, in summary, that every attempt had been made to eradicate the gorse, but that it was impossible to eradicate it. Judge Unwin found the charge to have been proved, but in the circumstances discharged Mr W without conviction, conditional upon his paying $50.00 towards the cost of prosecution.

We set out the Judge's decision, as the writer's notes:

"There have been more words spoken in this case than there are noxious plants within the District. I have already dealt with the many technical points in my decision in December. Because the Notice was not personally served on the farmer, I am loathed to enter a conviction. In the last case I discharged those farmers, conditional upon payment of $100.00 (total).

"I have heard the witnesses, and what they said was barely adequate. Mr W gave evidence that he did not see the advertisement.

"There was a conflict with the evidence given by Mr Farrell, who said in September in this Court he has seen the advertisement. I have some doubt, and should allow that doubt in favour of the defendant. I am still concerned about his approach.

"Mr Farrell is in no doubt that the gorse has been there for two years. Mr W has allowed this weed to proliferate, and that is of no assistance to himself or his neighbours. It was suggested that the weed was a regrowth, but I am unable to accept that. The work had not been done. The evidence of Mr W or his son has not helped.

"Mr Woodbridge raises the point to whether the work was 'controlled to the satisfaction of the authority'. Those words are not included in the advertisement. Mr Woodbridge says that the farmer would not know what to do, but he has not seen the Notice. I find that this (the missing words) did not prejudice this defendant.

"I find the charge has been proved, but because of the circumstances I am prepared to discharge the defendant without conviction, conditional upon his paying $50.00 towards the cost of prosecution. If Mr W. is not satisfied with the reasons I have given, he can appeal."

We shall let you have a note of our fee and disbursements shortly.

Yours faithfully,

—

30 March 1983

The Secretary,
Rangitikei District Noxious Plants Authority,
P. O. Box 22,
MARTON

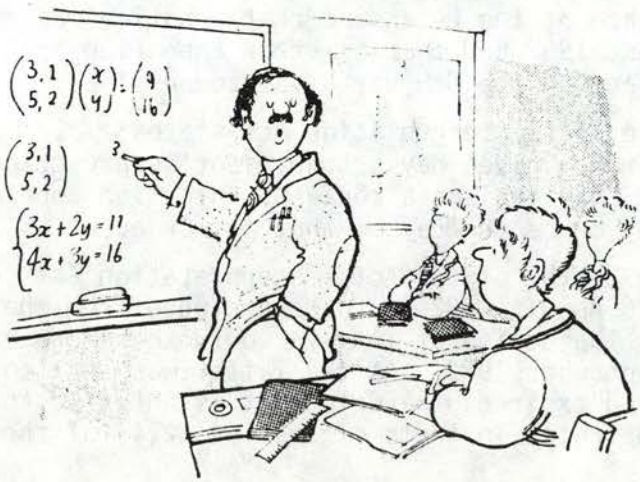
Dear Sir,

PROSECUTION - W.I. W & R.F. & A.L. H

We write further to our letter of 28 March 1983, and now enclose a note of our fee of $994.20.

We accept that the fee is a high one, but do ask the Committee to bear in mind the following:

1. We received or wrote some twenty letters.
2. There were numerous incidental and necessary telephone attendances.
3. We appeared in Court on six occasions to conduct the defended hearing. The main hearing lasted some three hours and the final hearing for one hour.



"If you don't pay attention, how are you going to be able to check your dole money?"

4. The defendants chose to challenge the jurisdiction of the Court, raising many novel and technical defences unsuccessfully, but these matters had to be researched and answered.

5. We understood that the cases were important ones for the authority.

We were mindful earlier of our costs, you may recall when we discussed to confer at your offices on 13 September 1982.

The reserve decision of Judge E.W. Unwin, of which you have a photocopy, certainly clarifies the law and will be of assistance to prosecuting authorities in future. You may wish to circulate it.

We thank you for your instructions. We are pleased to have been of assistance to you.

Yours faithfully,

CASE #2

PRELIMINARY SUBMISSIONS

1. The information has been laid in pursuance of Section 51 Noxious Plants Act 1978.

   The information alleges that the defendant has failed and neglected to comply with a notice to eradicate Class B Noxious Plants.

2. Section 52 Noxious Plants Act provides:

   "i) Every person receiving notice to control or eradicate Class B Noxious Plants may appeal in writing against the requirements of the notice within 14 days after its receipt ..."

   "ii) Every appeal shall be commenced by sending the writing accompanied by a fee of $10 to the District Authority".

3. It will be the evidence of the defendant that a notice was received by it on the 26th day of August 1982 and that a letter appealing against the notice was posted to the informant on the 8th day of September 1982.

4. Section 25 (b) of the Acts Interpretation Act states: "If in any act any period of time dating from a given day act or event is prescribed or allowed for any purpose the time shall unless a contrary intention appears be reckoned as exclusive of that day or of the day of that act or event.

5. By virtue of Section 25 (b) of the Acts Interpretation Act the day of receipt of the notice viz. 26 August 1982 is to be excluded from the calculation of time for appealing. The period of 14 days would therefore expire at midnight on the 9th day of September 1982. As the letter was sent to the Authority before the appeal period expired, the defendant is entitled to have its appeal determined by an arbitrator in terms of Section 52(4) of the Noxious Plants Act 1978.

6. The defendant's appeal has not been heard. Until the appeal is determined, the notice is suspended: Section 52 (6).

It is respectfully submitted that this Honourable Court has no jurisdiction to hear this information until the defendant's appeal has been determined. The information ought to be dismissed. An application for costs against the informant is made by the defendant.

Counsel for Defendant.

SUBMISSIONS IN REPLY

1. Points (1) and (2) of the informant's submissions are accepted. The salient point is what is meant by the phrase 'sending the writing ... to the District Authority.' There is no NZ decision on this point, but two English decisions are of assistance to the Court.

   i) Stanley v Thomas (1939)2 ALL ER 636. Lord Hewart LCJ

   The U.K. Road Traffic 1930 provided that the respondent had to have within fourteen days 'sent by registered post to him' a notice of intended prosecution. It was held that the statute required that the Notice shall be sent to the person (intended to be prosecuted), and does not require that it shall be received by him. (The judgement however does envisage a case in which a Notice is deliberately sent to an address where the intended recipient is unlikely to be, and states that in such a case a different view might be taken.)

   ii) Nash v Ryan .. Ltd (1978)1 ALL ER 492. A decision of the Employment Appeal Tribunal.

   The relevant regulation provided that proceedings should be instituted by 'sending' the application to the Secretary of Tribunals. Nash had done that within the required time, but it was received out of time. It was held that the ordinary meaning of the verb 'to send' was 'to dispatch' and there were no special circumstances to indicate that the word 'send' was to bear a different meaning. It was therefore sufficient that the application had been posted within the prescribed time.

2. Point (3). It is accepted by the informant that the Notice was received by the defendant on 26 August 1982, but it is not accepted that the letter appealing was posted on the 8th day of September 1982, as the letter was not received by the informant until 13 September 1982.

3. Point (4) is accepted.

4. Point (5) is accepted, provided the defendant can prove that the letter was in fact sent before midnight on Thursday 9 September 1982.

5. Point (6) is noted, but whether or not the Appeal has been heard and determined depends on the validity of the aforementioned matters.

6. It is submitted that this Court has the jurisdiction to hear this information. The defendant relies on an exemption or excuse within the meaning of Section 67(8) of the Summary Proceedings Act, 1957, and accordingly it is over to the defendant to prove the validity of it.

7. It is submitted that the information should proceed to hearing, unless on the face of the information there is a defect in it, then the Court would have no jurisdiction, e.g. the information had been laid out of time.

8. The information is laid pursuant to Section 13 of the Summary Proceedings Act, 1957 (hereinafter call "the "Act") and the hearing of it is subject to the Act.

9. The defendant is asking this Court to exercise a power which a High Court Judge would have under Section 347 of the Crimes Act, 1961. There is no corresponding section in the Act.

10. The Act provides for the procedure of a summary hearing. Once a plea is taken there are only two options open to a defendant - 'guilty' and 'not guilty'. Section 68 of the Act provides that the Court shall convict the defendant, or deal with the information ... or deal with the defendant in any manner prescribed by law.

DATED at Marton this day of March 1983.

Counsel for the Informant.

DECISION OF JUDGE UNWIN

This information deals with an alleged failure by the Defendant company to comply with a notice to eradicate noxious plants. The agreed or proved facts are as follows. Mr Farrell as Noxious Plants Officer issued a notice under Section 51 of the Noxious Plants Act 1978 to the Defendant company. The notice called on the company to eradicate certain plants within 100 days. It was dated 25th August 1982. It was received by the Defendant company on the 26th August 1982. Under Section 52(1) of the Act, the company had 14 days after the receipt of the notice within which to appeal in writing. The appeal must be sent within the 14 days, although not necessarily received within that time.

Under Section 25(b) of the Acts Interpretation Act the day of receipt of the notice is excluded from the calculation of time for appealing. The period of time within which to appeal therefore expired at midnight on Thursday the 9th September 1982.

On Monday morning the 13th September 1982 the Rangitikei County Council as the District Authority received an appeal in writing from the Defendant company. The appeal and cheque for $10.00 were dated the 8th September 1982. (The letter was actually dated 1992 which was clearly a typing error).

The County rejected the appeal "because the appeal was not served within 14 days of the receipt of the notice." In fact that was an improper rejection of the Appeal, although it could have been rejected if it had not been sent within that period. The County however, now contends that the Appeal was not sent within the required period, and has put the Defendant company to proof on the point.

The general basis for the rejection is that if the Appeal was posted before midnight on Thursday the 9th August 1982, it would have been uplifted by the County on Friday the 10th August 1982 at 8.30 a.m. when the mail is uplifted. Clearly that is unrealistic. The evidence adduced to date shows that the County uplifts mail at 8.30 a.m. each working day. The envelope containing the appeal and the Post Office time stamp could unfortunately not be produced.

Mr McLean for the Defendant Company gave evidence. He could not say when the letter was posted, except that as it was dated the 8th August, there was no reason why it should not have been posted that day in the course of the company's normal custom. Mr McLean was able to show that a letter received by the Post

Office at Marton at 7 p.m. on the 16th February, reached his office on the 22nd February.

On the evidence I have heard to date, I am quite satisfied that the appeal could have been posted at a post box or the Marton Post Office on Wednesday the 8th August or Thursday the 9th August and not have reached the County Office box prior to the following morning.

Put in another way, if the case proceeds on the present information, on the evidence I have heard so far, the county would not be able to establish beyond reasonable doubt, that the Appeal which was sent was invalid because it was sent out of time.

Under Section 52, people have the right to appeal to an arbitrator to test the reasonableness of the requirements of the notice. The arbitrator may inter-alia vary the requirement or extend the time in which the work has to be done. In the circumstances of this case, I believe that to deprive the Defendant Company of its right under Section 52 would result in a miscarriage of justice. Mr Taylor argues that I have no power to deal with this matter in an interim way, and that the case should proceed and be dealt with under Section 65 of the Summary Proceedings Act 1957.

I could of course adjourn the matter under Section 45 until the Appeal has been dealt with. In my view the information should be withdrawn under Section 36. It could be argued that once the appeal has been pronounced valid, then in terms of Section 52(6) of the Noxious Plants Act, the notice is suspended. The Defendant Company can only then be charged with an offence under Section 52(7) i.e. failure to comply with the Arbitrator's decision. In those circumstances the information could be held to be invalid under Section 204 of the Summary Proceedings Act particularly in view of my findings as to a miscarriage of justice.

The matter stands adjourned to the 27th April. I expect it to be withdrawn on that day. If not, I will quash it. I am not inclined to give costs against the informant, as I think it was entitled to put the Defendant company to proof, although its letter of the 22nd September shows that it was originally under a misconception. In the circumstances, costs will be reserved.

Once again I am indebted to counsel for their thoughtful and helpful submissions.

E.W. UNWIN
District Court Judge

Authority Slams National Council

THE SUPPOSED FAST-TRACK system of the National Noxious Plants Council isn't working, according to Matamata County District Noxious Plants Authority committee members.

And if members of the national body had attended the latest Matamata committee meeting, their ears would probably have been burning.

Local county councillors consider the council so infective they have decided to make a direct approach to the Minister of Agriculture to tell him what they think.

They feel the problem is serious enough to warrant ministerial action.

The authority last week decided to request a meeting with the two local M.P.'s - Matamata's Mr Jack Luxton and Taupo's Mr Roger McClay - as well as the Minister of Agriculture, Mr Doug McIntyre, the Noxious Plants Council chairman, Mr Don Mcnab, and his secretary.

Cr Ed White suggested the authority approach the Minister of Agriculture because "the whole operation has proved itself too slow and he should be aware of it".

The raging issue with the authority is the apparent futility of its attempts to gain a Class B classification for Matamata County's new farm weed, noogoora burr.

Without the classification, the authority has no legal jurisdiction to organise the eradication of the weed.

Since its first application to have noogoora burr classified as a Class B weed in September, 1981, there has been no acknowledgement from the Noxious Plants Council in Wellington.

Yet, according to Cr Bert Temm, the application gained the support of the regional co-ordinating committee in Hamilton.

Cr Peter Judd said, "I always understood this new noxious weeds act was supposed to be a fast-track, but I suspect that the track goes backwards."

Cr Judd wanted to know how long it would take to get a Noxious Plants Council special project off the ground for the eradication of noogoora burr.

"We should apply for a special project scheme even is it is for next year," he said.

Cr Temm questioned the consistency of the Noxious Plants Council's special projects, noting that no authority north of Palmerston North was mentioned in NPC's special project progress reports.

"How in the name of God can an authority get ragwort under a special project. I don't know. We can't even get a subsidy for ragwort."

The Authority has decided to apply to the Noxious Plants Council for a special project for noogoora burr. If successful, it would mean the NPC would foot 50 per cent of the clearance costs; decide what the local authority's share should be, then charge the farmer for the remainder.

Expecting considerable delay with the application, the authority is also considering alternative action such as using PEP labour to clear noogoora burr by hand.

(PUTARURU PRESS 8-11-83)

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*Before we try hard to get something we want, we should find out how happy people are who already possess it.

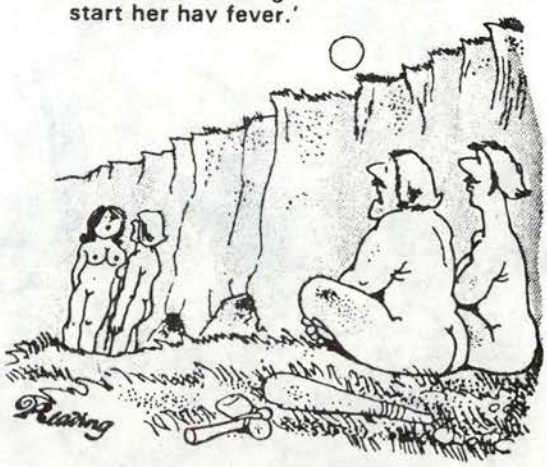
*Gossip acts unpredictably. It is not at all like anything else because the farther it spreads, the thicker it gets.

THE FUNNY PAGES

"Good morning, sir, is your good lady at home?"

'Give me something to start her hay fever.'

"Cancel Proudfoot's redundancy cheque, then call an ambulance . . ."

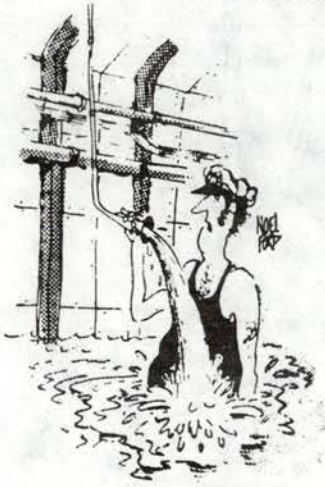


"All this talk about female emancipation. They'll want to stop hunting and stay home to do the cooking next !"

"Remember the good old days when you could fall asleep in the gutter?"

"Give it to me straight, Alice. There's someone else, isn't there?"

"Of course you're nervous. I'm nervous, we're all nervous – it's the pilot's first flight . . ."



"Engine room to bridge – what's going on up there?"

"Remember the old days, Frank, when you used to call me 'skinny' and I used to ruffle your hair?"

"I suppose it doesn't occur to you that your fresh, clean smell is just as sickening to me?"

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Volunteer (self-set) Potatoes	Californian Thistle
Couch	Australian Sedge
Kikuyu Grass	Glyceria
Paspalum	Floating Sweet Grass
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Annual Weeds	Tall Fescue
Nodding Thistle*	Bracken
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- Positive end kill.
- Year-round application.
- Minimum overall cost.
- Concentrated for convenience.

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