

Hon. Mr. Duncan.

ORCHARD AND GARDEN PESTS.

ANALYSIS.

Title.	
1. Short Title.	12. Inspector may employ assistants.
2. Interpretation.	13. Recovery of expenses.
3. Second Schedule to have effect only in counties adopting same.	14. Inspector may employ force.
4. Powers of Governor for preventing introduction of diseased plants, &c.	15. Person obstructing or hindering Inspector commits an offence.
5. Other diseases may be declared under First Schedule.	16. Protection of Inspectors.
6. Appointment of officers. Existing appointments continued.	17. How notices may be given.
7. Eradication of disease.	18. No compensation.
8. Occupier to give notice of any disease.	19. Definition of offences.
9. Procedure when disease found to exist in orchard.	20. Penalty for offences.
10. Inspector may enter and give notice to eradicate disease.	21. Recovery of penalties. Knowledge presumed against defendant.
11. Plants, &c., unlawfully introduced may be destroyed. Postal officers and officers of Customs to assist herein.	22. Penalties to be paid into Public Account.
	23. Expenses of administration.
	24. Limitations of actions against Inspectors.
	25. Regulations.
	26. Repeal. Saving. Schedules.

A BILL INTITULED

AN ACT to prevent the Introduction into New Zealand of Diseases affecting Orchards and Gardens, and to provide for the Eradication of such Diseases and to prevent the Spread thereof.

Title.

5

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Orchard and Garden Pests Act, 1900."

Short Title.

2. In this Act, if not inconsistent with the context,—

Interpretation.

"Disease" means any of the diseases named in the First Schedule hereto, and includes any other disease, other than those mentioned in the Second Schedule hereto, which the Governor from time to time by Order in Council gazetted declares to be a disease within the meaning of the said First Schedule; and, within the limits of any county in which the Second Schedule hereto is adopted in manner hereinafter provided (but not elsewhere), "disease" means also any of the diseases named in the Second Schedule hereto:

"Fruit" means the edible product of any plant, and includes the peel, skin, or shell of such product, and also the seeds

of such plant, whether such fruit is or is not attached to the plant :

“ Infected ” means infected with disease :

“ Infected package ” includes every case or other package in which any diseased plant or fruit is or has been contained, or with which any such plant or fruit has come in contact : 5

“ Minister ” means the Minister for Agriculture, or any member of the Executive Council, being a responsible Minister of the Crown, who for the time being is acting for him : 10

“ Occupier, ” in the case of any orchard or land which is unoccupied or whose actual occupier is unknown or cannot be found, includes the owner :

“ Orchard ” means any land used for the purpose of growing or cultivating plants, and extends to and includes garden, nursery, vinery, and vineyard : 15

“ Plant ” means any tree, flower, shrub, vegetable, or other vegetation of economic value.

Second Schedule to have effect only in counties adopting same.

3. The *Second* Schedule hereto shall have operation and effect only within the limits of the counties in which that Schedule has been adopted, and for the purposes of such adoption the following provisions shall apply :— 20

(1.) In a county wherein “ The Counties Act, 1886, ” is in operation, the adoption shall be effected by special order made by the County Council : 25

(2.) In a county wherein “ The Counties Act, 1886, ” is suspended or has never been in operation the adoption shall be effected by Proclamation by the Governor, on the petition of a majority of the road boards within the limits of the county : 30

(3.) In any county in which the said *Second* Schedule has been adopted in manner aforesaid, such adoption may in like manner be rescinded, and thereupon, and until the said Schedule is again adopted, it shall cease to have operation or effect within the limits of the county : 35

*Clause erased.*

(4.) For all the purposes of this section a borough shall be deemed to be within the limits of the county within whose boundaries the borough is situate. 40

*New Subclause.*

(4.) For all the purposes of this section a borough shall be deemed to be within the limits of the county within or adjoining whose boundaries the borough is situate :

Provided that where a borough adjoins the boundaries of two counties, then it shall be deemed to be situate wholly within the limits of the county whose boundaries the greater part of the borough adjoins. 45

Powers of Governor for preventing introduction of diseased plants, &c.

4. The Governor may, from time to time, by Proclamation, do any of the following acts :— 50

(1.) Revoke, either wholly or partially, any Proclamation which is in force at the time of the coming into operation of

this Act, and which was issued for any purpose for which a Proclamation or Order in Council may be issued under this Act:

- 5 (2.) Prohibit, ~~either~~ absolutely or except in accordance with regulations under this Act, the introduction into New Zealand, either generally or from any specified colony, country, port, or place, of any plant, fruit, fungus, parasite, insect, or any other thing which, in his opinion, is likely to introduce any disease into New Zealand:
- 10 (3.) Prohibit, ~~either~~ absolutely or except in accordance with regulations under this Act, the bringing into any specified portion of New Zealand from any other portion or specified portion of New Zealand of any specified plant, fruit, fungus, parasite, insect, or other thing which, in his
- 15 (4.) Appoint any specified ports to be the only ports of entry for plants or fruit or for any specified plant or fruit:
- (5.) Appoint quarantine grounds where plants or fruit, and the packages containing the same, or with which the same
- 20 may have come in contact, may be detained for the purpose of being inspected, disinfected, destroyed, or otherwise disposed of:

(6.) Revoke any Proclamation made under this Act.

25 5. The Governor may from time to time, by Order in Council, declare any diseases other than those named in the *First Schedule* hereto to be diseases within the meaning of that Schedule. Other diseases may be declared under First Schedule.

6. (1.) The Governor may from time to time appoint such Inspectors and other officers, with such powers and functions, as he deems necessary in order to carry out the provisions of this Act. Appointment of officers.

30 (2.) All Inspectors and other officers appointed under the Act hereinafter repealed shall be deemed to have been appointed under this Act. Existing appointments continued.

35 7. Every occupier of any orchard shall at all times do whatever is necessary in order to eradicate disease from such orchard, and prevent the spread thereof. Eradication of disease.

8. Every occupier of any orchard in which any disease appears shall, within ~~twenty-four~~ *forty-eight* hours after first discovering or becoming aware of its presence, give written notice thereof to the Secretary for Agriculture, at Wellington. Occupier to give notice of any disease.

40 9. If at any time it appears to an Inspector or other authorised officer that any disease exists, or has within the preceding three months existed, in any orchard or amongst the plants there growing, and that in order to eradicate or prevent the spread of such disease such orchard should be declared to be infected, he shall notify the

45 fact to the occupier of such orchard, and also to the Secretary for Agriculture, who shall notify the same to the Minister, whereupon the following provisions shall apply:—

- 50 (1.) The Minister may by notice published in the *Gazette* declare that such orchard, together with such area of land contiguous to or surrounding the same as he thinks expedient, is an infected place within the meaning of this Act.
- (2.) Such notice shall describe with reasonable particularity the situation and area of the orchard and other land to which such notice relates.

- (3.) From the date of the gazetting of such notice and until the revocation thereof, such orchard and other land shall be deemed to be an infected place from which no plants or fruit shall be removed except under the direction of an Inspector or other authorised officer, and within which the occupier shall do all such things as are necessary in order to eradicate or prevent the spread of the disease. 5
- (4.) Any such notice may be revoked by the Minister by notice in the *Gazette*.

Inspector may enter and give notice to eradicate disease.

10. (1.) Any Inspector or other authorised officer may at any time enter into any conveyance, or upon any orchard, land, or premises, or on board any vessel, for the purpose of inspecting any plants, or fruit, or the packages containing the same or with which the same may have come in contact, and shall have all such powers and authorities (including power to dig up plants, open packages, and otherwise) as he deems necessary for enabling him to enforce the provisions of this Act. 15

(2.) If such Inspector or other officer declares any such plants, fruit, or packages to be diseased or infected with disease he shall give notice thereof to the owner or person in charge thereof, who shall forthwith take such measures and do such acts as are necessary in order to eradicate or prevent the spread of the disease. 20

(3.) If such owner or person fails or neglects so to do to the satisfaction of the Inspector or other officer, such Inspector or other officer may do the same at the expense in all things of such owner or person, who nevertheless shall not thereby be relieved from his other liabilities under this Act. 25

(4.) In the exercise of the powers conferred upon him by this section the Inspector or other officer may remove, treat, disinfect, destroy, or otherwise dispose of any such plants, fruit, or packages in such manner as he thinks fit. 30

Plants, &c., unlawfully introduced may be destroyed.

11. (1.) Any plant, fruit, fungus, parasite, insect, or other thing which is in any way introduced or attempted to be introduced into New Zealand in contravention of any Proclamation under this Act may, together with any package containing the same or with which the same may have come in contact, be seized by any Inspector or other authorised officer, or any officer of Customs, and be disinfect, destroyed, or otherwise disposed of as such Inspector or officer deems fit, at the expense of the owner or person in charge thereof. 35

Postal officers and officers of Customs to assist herein.

(2.) It shall be the duty of all officers of the Postal Department and of the Customs respectively to assist in carrying out the provisions of this section and in preventing the introduction into New Zealand of anything in contravention of any such Proclamation, and for that purpose they may, in respect to anything so introduced or attempted to be introduced, exercise all the powers conferred by "The Post Office Act, 1881," in the case of letters or packages posted in breach of that Act, and by "The Customs Laws Consolidation Act, 1882," in the case of uncustomed or prohibited goods. 40 45

Inspector may employ assistants.

12. Any Inspector or other authorised officer may employ such assistants as he deems necessary in carrying out the provisions of this Act, and may pay them such remuneration as the Minister deems reasonable. 50

Recovery of expenses.

13. The owner, occupier, or other person through whose neglect, omission, or other default, or by reason of the infection of whose orchard, plants, fruit, or packages, the expenses of such employment 55

have been incurred shall repay the same to the Inspector on demand; and, in default of payment, such expenses may be recovered as a debt due to the Crown.

14. For the purpose of making any entry or removal, or otherwise performing his duties under this Act, any Inspector or other authorised officer or assistant may, in case of resistance, use all necessary force.

Inspector may employ force.

15. Every person commits an offence against this Act who directly or indirectly obstructs, hinders, or interrupts, or threatens, or assaults, or uses improper or abusive language to, any Inspector or other authorised officer or assistant whilst in the performance of his duty under this Act:

Person obstructing or hindering Inspector commits an offence.

Provided that no proceedings for the recovery of any penalty for such offence, nor the payment thereof, shall be a bar to any action at law by any such Inspector or other authorised officer or assistant; but every such action may be commenced and proceeded with as if this Act had not been passed, any rule of law to the contrary notwithstanding.

16. No Inspector or other authorised officer or assistant shall be deemed to be a trespasser by reason of any entry or removal under this Act, or be liable for any damage occasioned in carrying out the provisions of this Act.

Protection of Inspectors.

17. Any notice to be given to any person by any Inspector or other authorised officer or assistant in the performance of his duties under this Act may be given either by delivering the same to such person, or by leaving the same at or posting the same addressed to him at his usual or last known place of abode or business in New Zealand, or, if he is unknown or cannot be found in New Zealand, then by affixing such notice on a conspicuous place on the land to which such notice relates.

How notices may be given.

18. No person shall be entitled to any compensation whatsoever in respect of anything done by any Inspector or other authorised officer or assistant in the discharge of his duties under this Act, or in respect of any measure taken in order to eradicate or prevent the spread of disease or carry out the provisions of this Act, or in respect of any loss or injury that may directly or indirectly result therefrom.

No compensation.

19. Every person commits an offence against this Act who, directly or indirectly, by himself, his servant or agent,—

Definition of offences.

(1.) Sells or offers or exposes for sale or distributes in any manner any plant, fruit, or package which to his knowledge is diseased or infected, or (except under the direction of an Inspector or other authorised officer) brings or suffers the same to be brought upon or removes or suffers the same to be removed from his premises; or

(2.) Sells or offers or exposes for sale or distributes in any manner any plant, fruit, or thing which to his knowledge has been introduced into New Zealand in breach of any Proclamation under this Act, or (except under the direction of an Inspector or other authorised officer) brings or suffers the same to be brought upon or removes or suffers the same to be removed from his premises; or

- (3.) Does or attempts to do any other act in breach of this Act or of any Proclamation, Order in Council, or regulation under this Act; or
- (4.) Fails or neglects to faithfully observe and perform any duty or obligation imposed on him by this Act or by any Proclamation, Order in Council, or regulation under this Act. 5
- Penalty for offences.** 20. Every person who commits any offence against this Act is liable to a penalty not exceeding *twenty* pounds.
- Recovery of penalties.** 21. (1.) All penalties under this Act shall be recovered in a summary way before a Stipendiary Magistrate alone, and upon prosecution by an Inspector or some person authorised by him or by the Minister in that behalf. 10
- Knowledge presumed against defendant.** (2.) Whenever in any such prosecution knowledge must be shown, such knowledge shall be presumed unless and until the contrary is proved and the defendant satisfies the Court that the want of knowledge was reasonable and was in no way imputable to negligence on the part of himself, his servant, or agent. 15
- Penalties to be paid into Public Account.** 22. All penalties and other moneys recovered or received under this Act shall be paid into the Public Account and form part of the Consolidated Fund. 20
- Expenses of administration.** 23. All expenses incurred in the administration of this Act shall be paid out of moneys to be appropriated by Parliament for that purpose.
- Limitations of actions against Inspectors.** 24. (1.) No action shall be brought against any Inspector, or other authorised officer or assistant acting in execution of this Act, for anything done in pursuance hereof or under the authority hereof, unless such action is commenced within two months after the cause of action arose. 25
- (2.) The defendant in any such action may give this Act and any special matter in evidence. 30
- Regulations.** 25. The Governor by Order in Council gazetted may from time to time make such regulations as he deems necessary for any of the purposes following, that is to say,—
- (1.) Prescribing the manner in which diseased plants or fruit and infected packages shall be treated, cleansed, destroyed, or otherwise disposed of: 35
- (2.) Providing for the registration of such orchards as are nurseries, and the terms and conditions of such registration: 40
- (3.) Prescribing the matters in respect whereof fees shall be payable under this Act, fixing the amount of such fees, and the mode of the payment and recovery thereof: 40
- (4.) And generally for any other purpose for which regulations are contemplated by this Act, or which he deems necessary in order to give full effect to this Act, ~~including the imposition of penalties not exceeding twenty pounds for the breach of any regulation.~~ 45
- Repeal.** 26. "The Orchard and Garden Pests Act, 1896," is hereby repealed: 50
- Saving.** Provided that all Proclamations and Orders in Council made thereunder and in force at the time of the coming into operation of this Act shall be deemed to have been made under this Act, and shall continue in force until revoked under this Act.

---

SCHEDULES.

Schedules.

FIRST SCHEDULE.

MEDITERRANEAN or West Australian fruit-fly (*Halterophora capitata*).  
San José scale (*Aspidiosus perniciosus*).  
Queensland fruit-fly (*Tephrytes tryoni*).  
Vine-louse, or phylloxera (*Phylloxera vastatrix*).

SECOND SCHEDULE.

AMERICAN blight (*Schizoneura lanigera*).  
Apple-scab (*Fusicladium dendriticum*).  
Codlin-moth (*Carpocapsa pomonella*).  
Mussel or oyster scale (*Mytilaspis pomorum*).