

Plant Diseases Bill.

EXPLANATORY NOTE.

THE present Vine and Vegetation Diseases and Fruit Pests Act, 1912, deals with plant diseases in two main parts—Part II relating to phylloxera of grape vines, and Part III to other diseases and pests.

Part II, which is mainly a repetition of legislation passed in 1893, provides for the proclamation of "vine districts," and perpetuates the old cumbrous and expensive administration of these "vine districts" by "vine boards." This part of the Act has become wholly disused.

Part III of the 1912 Act consists of two divisions—Division 1 relating to vegetation diseases, and Division 2 relating to fruit pests. In Division 1 the word "disease" means any disease affecting plants which is by the Governor declared to be a disease within the meaning of Part III of the Act. But although the definition is very comprehensive, Division 2 is directed mainly towards preventing the introduction of disease into the State and the spread of diseases already present. It gives no powers to inspectors to enter land and compel the treatment of diseases. These latter powers are contained in Division 2 of Part III, but this relates only to fruit pests, and the only two fruit pests contemplated by the Act are codlin moth and fruit fly.

The following are the principal new features in the present Bill:—

The definition of "pest" is extended to any organism declared by the Governor to be a pest.

Power is given by section 4 to prohibit the introduction into or movement within the State of infected cases, coverings, and other things which are infected or likely to introduce any disease or pest.

By section 5 the Governor is authorised to—

- appoint specified ports or places of entry for plants or fruit;
- appoint quarantine stations;
- declare quarantines;
- prohibit the use of infected cases, &c.;
- prohibit the removal of plants or fruit except upon prescribed conditions.

Section 7 requires the notification by occupiers of orchards or nurseries of the appearance of any disease or pest.

Section 11 authorises an inspector to require an owner or occupier to take steps to prevent the spread of disease, although there is not evidence that the orchard or nursery is infected.

Section 14 authorises the destruction by an inspector of infected plants, fruit, or coverings.

Section 15 enables an inspector to demand the necessary particulars regarding the origin of any fruit or plants.

Section 16 provides for the registration of orchards and nurseries and the payment of a fee therefor.

It also provides for the opening of a special account to which these fees are to be paid, and for their application in approved methods in the furtherance of the fruit-growing industry, &c.

Section 18 gives power to destroy plants in abandoned orchards and nurseries.

Section 19 provides for the annual destruction of cotton plants.

Section 24 gives power to make regulations dealing with the branding and labelling of coverings containing fruit or plants, and with the grading and packing of fruit or vegetables, and certain other matters.

Section 25 prohibits the topping up of fruit or vegetables.

No. , 1923.

A BILL

To make further provision to prevent the introduction into New South Wales of diseases and pests affecting plants or fruit; to provide for the eradication of such diseases and pests, and to prevent the spread thereof; to make certain provisions with regard to the sale and grading of fruit and vegetables; to provide for the registration of orchards and nurseries; to make certain provisions as to the growing of cotton; to repeal the Vine and Vegetation Diseases and Fruit Pests Act, 1912; to amend the Fruit Cases Act, 1912, and certain other Acts; and for purposes connected therewith.

[CAPTAIN CHAFFEY;—17 *October*, 1923.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

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Preliminary.

- Short title. **1.** This Act may be cited as the "Plant Diseases Act, 1923."
- Repeal and saving. **2.** (1) The Vine and Vegetation Diseases and Fruit Pests Act, 1912, is hereby repealed. 10
 (2) All persons appointed under the said Act, and holding office at the commencement of this Act, shall be deemed to have been appointed under this Act.
 (3) All proclamations published, and all regulations made under the said Act, and in force at the commencement of this Act, in so far as they are not inconsistent with this Act, shall be deemed to have been published or made under this Act. 15
- Interpretation. **3.** In this Act, unless the context or subject-matter otherwise requires,— 20
 "Covering" or "package" includes any case, box, bag, wrapper, packing, or material of whatsoever description used or intended to be used for the packing of any plant, fruit, or vegetables. 25
 "Disease" means any disease of plants which the Governor may by notice in the Gazette declare to be a disease, and includes any such disease at any stage of its existence.
 "Fruit" means the product of any plant, and includes the peel, skin, or shell of any such product, and the seeds of any plant. 30
 "Infected" means infected with disease or pest.
 "Inspector" means inspector appointed under this Act. 35
 "Minister" means the Minister for Agriculture.
 "Nursery" means any land or premises whereon or wherein plants are grown for the purpose of sale or disposal in their living state.
 "Occupier"

- “Occupier” includes any person having the charge, control, or management of any orchard or other land or premises.
- 5 “Orchard” means any place where fruit-producing plants are grown.
- “Owner” includes the holder of any lease or license from the Crown and any person deriving title thereunder.
- 10 “Pest” means any organism belonging either to the animal or vegetable kingdom which the Governor may by notice in the Gazette declare to be a pest.
- “Plant” means any tree, vine, flower, shrub, vegetable, or other vegetation of economic value, or which the Governor may by notice in the Gazette declare to be a plant.
- 15 “Prescribed” means prescribed by this Act or regulation made thereunder.
- “Sell” includes offering or attempting to sell, exposing for sale, and sending, forwarding, or delivering for sale.
- 20 “Vegetables” means potatoes, onions, green peas, green beans, or any other vegetable which the Governor may by notice in the Gazette declare to be a vegetable.
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Governor's proclamation.

4. (1) The Governor may by proclamation prohibit the importation, introduction, or bringing into the State (or into any specified portion thereof) either generally or from any country or place, or the bringing into one portion of the State from any other portion of—
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- (a) any plant, fruit, or other thing of any nature or kind whatsoever which in his opinion is likely to introduce any disease or pest into the State or into any specified portion thereof, as the case may be; or
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- (b) any covering or goods in, or with which, any such plant, fruit, or thing has been contained, or packed, or with which it has come in contact; or
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- (c) anything which is infected. (2)
- Power to prohibit the introduction of things likely to introduce disease.

(2) Such prohibition may be absolute or conditional.

(3) The Governor may at any time revoke or vary such proclamation.

Power to
appoint
places of
entry and
quarantine.

5. (1) The Governor may by proclamation— 5

- (a) appoint any specified ports or places to be the only ports or places of entry into the State for plants or fruit or for any specified kind of plants or fruit ;
- (b) appoint quarantine stations where plants or fruit may be grown, or where plants, fruit, coverings, or any thing of any nature or kind whatsoever which has come in contact with plants or fruit may be inspected, disinfected, destroyed, or otherwise disposed of ; 10 15
- (c) declare any land or building to be in quarantine, and may give such directions as may be necessary to render such declaration effective ;
- (d) prohibit the use, storage, or carriage within the State or within any specified portion thereof of coverings in or with which any plant or fruit has been contained or packed or of any thing with which any plant or fruit has come in contact, or which is likely to convey any disease or pest ; 20 25
- (e) prohibit the removal from any place of any plant or fruit either absolutely or subject to conditions specified in the proclamation ;
- (f) require owners or occupiers of orchards and of nurseries either throughout the State or within any specified portion thereof to take such measures and to do such acts as are specified in the proclamation for the treatment of any disease or pest or the prevention of the spread thereof, and may further require that such measures shall be taken or such acts done at any time or times specified in the proclamation. 30 35

(2) The Governor may at any time revoke or vary such proclamation.

Seizure of
prohibited
plants.

6. (1) Any plant, fruit, covering, or other thing which is dealt with or disposed of in any way contrary 40

to

to any direction or prohibition contained in any proclamation may be seized by any person authorised in writing by the Minister either generally or specifically, and when so seized shall be destroyed or otherwise dealt
5 with in such manner as the Minister shall direct.

(2) Any expense thereby incurred shall be recoverable by an inspector in any court of competent jurisdiction from either the owner or the person in charge of such plant, fruit, covering, or thing.

10 **7.** The occupier of any orchard or nursery in which any disease or pest appears shall, within twenty-four hours after first discovering or becoming aware of its appearance, give written notice thereof to an inspector or to the Under Secretary of the Department of
15 Agriculture.

Notice to be given of appearance of disease.

Inspectors and their powers and duties.

8. The Minister may appoint inspectors, who shall have the powers and perform the duties prescribed.

Appointment of inspectors.

20 **9.** (1) An inspector may employ such assistants as he deems necessary in carrying out the provisions of this Act.

Employment of assistants and use of force.

(2) For the purpose of making an entry or removal or otherwise performing his duties under this Act, any inspector or assistant may, in case of resistance,
25 use all necessary force.

(3) Every person who obstructs, hinders, threatens, or assaults any inspector or assistant whilst in the performance of his duty shall be guilty of an offence.

30 **10.** (1) An inspector may enter any land or premises, and may stop and enter or board any conveyance or vessel, and search and inspect the same for the purpose of ascertaining whether the same or any part thereof or anything thereon or therein is infected, and may for the purpose aforesaid dig up plants, open
35 packages, and do such other things as he may deem necessary or expedient.

Power of entry and search.

(2) If an inspector is satisfied that any plant, fruit, vegetables, covering, goods, conveyance, vessel, or thing is infected, he shall give notice to the
owner

Power to order infected things to be dealt with.

owner or person in charge thereof, and on receipt of such notice such owner or person shall forthwith take such measures and do such acts as the inspector shall direct or are prescribed.

Power to require owner or occupier of orchard to prevent spread of disease.

11. An inspector may serve on the owner or occupier of any orchard or nursery a notice requiring him to take such measures or do such acts as are specified in such notice, or are prescribed, to prevent the spread of any disease or pest. Such notice may be given, notwithstanding that there is no evidence that the orchard or nursery is infected. 5 10

Steps to be taken when orchard infected.

12. (1) Whenever an inspector is satisfied that disease or pest exists on any orchard, nursery, land, or premises, he may serve on the owner or occupier a notice requiring him to take such measures or do such acts as are specified in such notice or are prescribed. 15

(2) Such notice may name a time at which the doing of anything thereby required shall be commenced and a time within which it shall be completed.

Recovery of expenses.

13. (1) In case of any default in compliance with the terms of any notice given by an inspector under sections ten, eleven, or twelve, the inspector may do or cause to be done all such things as he may deem necessary in order to comply with the terms of the notice, and the expenses thereby incurred shall be recoverable by an inspector in any court of competent jurisdiction from the person guilty of the default. 20 25

(2) Where an inspector carries out any work under the last preceding subsection the expenses so recoverable shall include a proportionate part of the inspector's salary having regard to the time occupied by him in carrying out the work and in travelling for such purpose, and the necessary expenses incurred in connection with such travelling. 30

Power to destroy infected plants, coverings, &c.

14. An inspector may destroy or otherwise dispose of any plants or fruit which are infected or which he, on reasonable grounds, believes to be infected, or any coverings with which such plants or fruit have been contained or packed or any other fruit or coverings with which they have come in contact. 35 40

15.

15. An inspector may require any person having in his possession or under his control any fruit or plants for sale, to answer any questions relating to such fruit or plants. Power to question vendors of fruit.

5 Any person who refuses to answer any such question to the best of his knowledge, or who wilfully makes a false answer to the same or any part thereof shall be guilty of an offence.

Registration.

10 **16.** (1) Every orchard and nursery, unless exempted by the Minister, shall be registered by the person in the manner and at the time prescribed. The application for such registration shall be accompanied by the prescribed fee. Orchards and nurseries to be registered.

15 (2) The fees in respect of the registration of orchards and nurseries shall be paid into a special account at the Treasury.

(3) The Colonial Treasurer shall, upon the recommendation of the Minister, pay out of such special account, moneys—

(a) to any co-operative society which has among its objects the most advantageous production, treatment, and sale of fruit;

25 (b) to any other association or body of persons who, to the satisfaction of the Minister, will wholly apply such moneys to—

(i) the promotion of the further production, treatment, and sale of fruit; or

30 (ii) the importation, selection, growing, or cultivation of new or improved species of plants;

(c) to be used in any other manner which the Minister deems to be best calculated to develop the fruit-growing industry.

35 (4) Any moneys so paid shall be expended for such purposes in furtherance of the interests of the fruitgrowers or nurserymen of New South Wales as in any particular case the Minister may approve or generally as may be prescribed.

(5)

(5) The expenditure of any moneys so paid shall be accounted for in such manner as may be prescribed.

Certificated nurseries.

Inspection
and certi-
fication.

17. (1) The Minister may, whenever he thinks fit, 5
and shall, on request made to him by the owner or
occupier, cause an inspector to inspect any nursery, and
if on inspection it is found that the plants in such
nursery are free from disease or pest the Minister, or
any officer authorised by the Minister in that behalf, 10
may give to the owner or occupier a certificate in the
form prescribed. Such certificate shall have effect for
the time mentioned therein.

(2) The Minister may cancel any such certificate,
and if a certificate is cancelled the person to whom the 15
certificate was issued shall on demand forward it to the
Minister.

(3) Any person who falsely pretends that he is
the holder of any such certificate shall be guilty of an
offence. 20

Abandoned orchards and nurseries.

Power to
destroy
plants in an
abandoned
orchard or
nursery.

18. (1) If an inspector reports to the Minister that
any orchard or nursery is habitually, or has been for a
period of two years, uncultivated or neglected, or that
any orchard or nursery by reason of neglect is likely 25
to spread disease or pest, the Minister may give notice
to the owner or occupier calling upon him to show cause
within a time to be specified in the notice why the
Minister should not exercise the powers conferred upon
him by this section. 30

(2) Unless within the time specified in the notice
good cause as aforesaid is shown to the satisfaction of
the Minister the Minister may cause all plants in the
orchard or nursery, which in the opinion of an inspector
are likely to harbour or spread any disease or pest, to be 35
destroyed, and any cost thereby incurred may be recovered
by an inspector in any court of competent jurisdiction
from either the owner or occupier of such orchard or
nursery.

Cotton

Cotton plants.

19. All cotton plants shall, on or before the thirty-first day of August in each year, be uprooted and destroyed by the person and in the manner prescribed:

Destruction of cotton plants.

5 **20.** Provided that the Minister may, in particular cases upon application made to him in the form prescribed, postpone the date fixed as aforesaid to such later date as is specified in a permit issued by him for that purpose.

10 *Miscellaneous.*

20. The owner of any orchard, nursery, land, or premises which is or are in the occupation of another person as lessee or otherwise shall have full right of entry on and into the same, and of remaining thereon

Owner to have right of entry.

15 and therein for the purpose of the performance of any duty or obligation imposed upon him under this Act.

Any person who hinders or obstructs the performance by any other person of any duty or obligation imposed on him under this Act shall be guilty of an offence.

21. Any notice to be given to any person under this Act shall be in writing, and may be served on such person personally, or left at or posted by registered letter to his usual or last known place of abode in this State, or if such person or his address is unknown or if he has no

Notices to be given in writing.

25 place of business or place of abode in this State, then service may be effected by affixing the notice in a conspicuous place on the land to which the notice relates.

22. No person shall be entitled to compensation by reason of anything done by any inspector or other person in the discharge of any duty or obligation imposed by this Act or any regulation thereunder, or in respect of any loss or injury that may directly or indirectly result therefrom unless the same was occasioned wilfully, negligently, or without necessity.

Persons not entitled to compensation.

23. (1) Every person commits an offence against this Act who, himself or by his servant or agent—

Offences.

(a) without reasonable cause sells or brings upon or removes from his premises any plant, fruit, covering, or thing of any nature or kind

whatsoever which is infected or which is likely to convey infection or which has been introduced into this State in contravention of the provisions of any proclamation or regulation under this Act; or

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- (b) being the owner or occupier of any orchard or nursery, sells any plant or fruit from such orchard or nursery, while such orchard or nursery is not registered in accordance with the provisions of this Act unless such orchard or nursery is exempted from registration; or
- (c) does or attempts to do any act in breach of the provisions of this Act, or of any proclamation or regulation thereunder; or
- (d) without reasonable excuse fails or neglects to perform any duty or obligation imposed on him by this Act, or by any proclamation or regulation thereunder; or
- (e) without reasonable excuse fails or neglects to comply with the requirements of any notice served upon him or given to him by an inspector under this Act or any regulation thereunder.

Penalties.

(2) Any person who commits any offence against this Act, or any regulation thereunder, shall (if no other penalty is specified) be liable to a penalty not exceeding *fifty* pounds.

Regulations.

24. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act; and in particular and without limiting the generality of the foregoing power, the Governor may make regulations with respect to the following matters—

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- (a) the examination, detention, treatment or destruction of any thing, including plants, fruit, and coverings, in order to eradicate or lessen the risk of disease or pest, or to prevent any disease or pest attacking or being harboured thereon or therein;
- (b)

- (b) the registration of orchards and nurseries ;
 (c) the branding or labelling of coverings contain-
 ing fruit or plants ;
 5 (d) the grading and packing of fruit or vegetables ;
 (e) the inspection of and the granting of certifi-
 cates as to the quality and condition of fruit,
 plants, or vegetables intended for sale or export ;
 (f) prescribing the payment and recovery of fees
 generally under this Act, including fees—
 10 (i) for registration under this Act ;
 (ii) in respect of any inspection, disinfection
 or destruction by an inspector at any
 port of entry or quarantine station ;
 15 (iii) for the granting of any certificate as
 to quality or condition.
- (2) Such regulations may impose a penalty not
 exceeding *fifty* pounds for any breach thereof.
- (3) Such regulations shall—
 20 (i) be published in the Gazette ;
 (ii) take effect from the date of publication or from
 a later date to be specified therein ; and
 25 (iii) be laid before both Houses of Parliament
 within fourteen days after publication if
 Parliament is in session, and if not, then
 within fourteen days after the commencement
 of the next session. If either House of Parlia-
 ment passes a resolution, of which notice has
 been given, at any time within fifteen sitting
 days after such regulations have been laid
 30 before such House disallowing any regulation,
 such regulation shall thereupon cease to have
 effect.

*Fair average quality of fruit and vegetables
 to be indicated.*

- 35 **25.** (1) No person shall sell any fruit or vegetables
 in any package unless such fruit or vegetables are so
 packed or arranged that the outer layer or shown
 surface thereof is a true indication of the fair average
 quality of the whole of such fruit or vegetables.

Sale of fruit,
 &c., not up to
 fair average
 quality.

The

The fact that more than ten per centum of such fruit or vegetables is substantially smaller than or inferior to the outer layer or shown surface of such fruit or vegetables shall be prima facie evidence that the fair average quality of such fruit or vegetables is not truly 5 indicated.

(2) No person shall sell any fruit or vegetables contained in any package which also contains any foreign substance in a greater proportion than is prescribed.

(3) Any person who contravenes the provisions 10 of this section shall be liable to a penalty not exceeding *twenty* pounds.

Amendment of Fruit Cases Act, 1912.

Amendment
of Act 72 of
1912, s. 7.

26. Section seven of the Fruit Cases Act, 1912, is amended by omitting from paragraph (a) of subsection 15 one the words "Vines and Vegetation Diseases Act, 1901, or Fruit Pests Act, 1906" and inserting in lieu thereof the words "Plant Diseases Act, 1923."

Sydney: Alfred James Kent, Government Printer—1923.

[*Is. Id.*]