

New Parliament.

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

Legislative Council,  
24th October, 1884.

Hon. Mr. Waterhouse.

CODLIN MOTH.

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A BILL INTITULED

AN ACT to provide for the Destruction of the Insect known as *Carpocapsa pomonella*, or "the Codlin Moth." Title.

5 WHEREAS it is expedient to provide measures for the destruction of the insect known as *Carpocapsa pomonella*, or "the Codlin Moth:" Preamble.

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

- 10 1. The Short Title of this Act is "The Codlin Moth Act, 1884." Short Title.
- 2. In this Act, if not inconsistent with the context,— Interpretation.
  - "Orchard" means and includes every garden and piece of land in which fruit trees of any description may be growing:
  - "Infected" means actually infected with the moth, and where
  - 15 the moth is or has been present:
  - "The moth" means the insect known as *Carpocapsa pomonella*, or the codlin moth, in any form:
  - "Inspector" means an Inspector of Orchards:
  - "Fruit" means apples and pears of all descriptions:
  - 20 "Tree" means apple and pear trees of five years old and upwards:
  - "Prescribed" means prescribed by regulations under this Act:
  - "Clean district" shall mean a district proclaimed to be uninfected with the moth:
  - 25 "Unclean district" shall mean a district proclaimed to be infected with the moth:
  - "County Council" means any Council constituted under the Counties Act;

“Borough Council” means any Council constituted under the Municipal Corporations Act.

Owner of unoccupied orchard to be deemed the occupier.

3. The owner of any unoccupied orchard shall, for the purposes of this Act, be deemed to be the occupier thereof; and all the provisions of this Act shall be applicable to such owner in the same manner in all respects as if such owner were the actual occupier of such land. 5

Districts may be Proclaimed.

4. The Borough or County Council may, on the receipt of a petition signed by not less than five persons who are occupiers of orchards within any proposed district, stating approximately the number of trees owned by such petitioners respectively, and praying that any portion of the county described in such petition may be declared a clean or unclean district under this Act, cause the prayer and substance of such petition to be published in the one newspaper published nearest to the proposed district; and, unless a counter-petition, signed by occupiers of orchards owning a larger number of trees in the same portion of the county than the persons praying such district to be declared, is received by the Borough or County Council within thirty days from the date of such publication, the Borough or County Council may, by Proclamation, constitute and declare the area described in such petition to be a district for the purposes of this Act, by some specific name. 10 15 20

Contribution to Codlin Moth Fund.

5. There shall be payable to the Codlin Moth Fund by the occupier of every orchard in every unclean district a contribution of a sum not exceeding *one halfpenny* for every tree growing in the orchard occupied by him, the amount of such contribution in any one year to be fixed by the Borough or County Council by public notification; and such contribution shall be paid to the Borough or County Council in the first instance within one month after the district has been proclaimed unclean, and afterwards on the first day of October in every year, and shall be calculated for each year upon the number of such trees growing in such orchard on the said day: Provided that, if at any time it appears to the Borough or County Council, upon balancing such account, that a certain proportion only of such contribution will be necessary for the purposes of this Act during the then current year, it shall be lawful for the Borough or County Council to direct that the proportion so certified, and no more, of such contribution shall be payable in respect of such year. 25 30 35

If at any time the said fund is insufficient to defray all lawful charges thereon, it shall be lawful for the Borough or County Council to levy a further contribution not exceeding *one halfpenny* for every tree in every orchard within every unclean district for the purpose of making good the amount of such deficiency. 40

Return of trees for contribution.

6. The occupier of every orchard when first paying such contribution shall deliver to the Borough or County Council a return in the form in the Schedule stating the number and description of trees growing in such orchard on the day on which the district was proclaimed unclean, and, in each succeeding year, of all trees growing in such orchard on the first day of October in such year; and every such occupier who refuses or neglects to make such return shall forfeit and pay a penalty not exceeding *five* pounds. 45 50

Returns to be verified.

7. Every such return shall be verified by declaration in the form in the Schedule that the matters contained in such return are

true; and every person who wilfully makes any false return under this Act shall forfeit and pay a penalty not exceeding *five* pounds.

8. Every occupier who omits to pay the contribution due from him within two months after the same becomes due in any year shall pay an additional amount equal to one-fourth part of such contribution; and if any occupier after the expiration of the said two months omits or refuses to pay the contribution payable by him, then it shall be lawful for any Inspector to sue for and recover such contribution, together with such additional amount, at any time not being more than one year after the time when such contribution should have been paid.

Contribution not paid in time.

9. There shall be applied out of the Codlin Moth Fund such sums of money as may be required for payment of the salaries and allowances of the Inspectors appointed under this Act, and the Borough or County Council for the time being is hereby authorized and empowered to appropriate and issue such sums accordingly, but subject, nevertheless, to the provisions of any Act in force for the time being with reference to the audit of public accounts.

Payments from Codlin Moth Fund.

10. The Borough or County Council may from time to time appoint such Inspectors of Orchards as it deems necessary, and may from time to time dismiss or remove such Inspectors.

Appointment of Inspectors.

11. Every Inspector shall have, exercise, and discharge the several powers, authorities, and duties prescribed, and may at any reasonable time, after giving twenty-four hours' notice to the occupier thereof, enter upon any orchard in any unclean district for the purpose of inspecting the trees in such orchard or the fruit thereon; and if any person refuses to allow any Inspector to enter at any reasonable time upon his orchard after receipt of such notice, or to examine any tree or fruit being therein or thereon, or impedes or hinders, or attempts to impede or hinder, the Inspector from examining such trees or fruit, such person shall forfeit and pay a penalty not exceeding *five* pounds.

Powers of Inspectors.

12. The Borough or County Council may, with the approval of the Governor in Council, from time to time make, and from time to time rescind and alter, regulations—

Regulations.

For the guidance of Inspectors, and prescribing their duties:  
For prescribing the manner in which and the times at which the occupier of every orchard in every unclean district shall—

40 Give notice of his orchard being infected;  
Bandage, dress, or otherwise treat infected trees in his orchard:

45 For prescribing the manner in which infected fruit shall be destroyed, or rendered fit for the food of any animal:

For prescribing the manner in which bandages used upon infected trees shall be destroyed, or cleansed or otherwise rendered fit to be again used for such purpose:

Generally for the destruction of the moth, and as to all other matters of detail for carrying this Act into full effect.

50 And may by any regulation prescribe a penalty not exceeding *five* pounds for breach of or non-compliance with any such regulation.

13. If any Inspector wilfully violates, or omits to comply with, or neglects or refuses to enforce any regulation, he shall be liable to a penalty not exceeding *ten* pounds.

Penalty on Inspector for breach of regulations.

Infected fruit, cases, &c., not to be removed out of district.

14. No person shall remove out of any unclean district, or convey into any clean district, any fruit infected with the moth, or any case, box, barrel, or other receptacle which has at any time contained any fruit so infected; and if any person offends against this provision he shall be liable to a penalty not exceeding *five* 5 pounds.

Proof of fruit, &c., not being infected.

15. In any legal proceedings against any person for any breach of or non-compliance with any provision of this Act or any regulation, proof that any tree, fruit, or other matter or thing herein mentioned or in any regulation was not infected with the moth shall rest upon 10 the defendant.

Recovery of penalties, &c.

16. All sums of money recoverable from any occupier under this Act, and all penalties imposed or made payable by this Act or any regulation made under this Act, shall be recovered in the mode prescribed by "The Justices of the Peace Act, 1866." 15

Appropriation.

17. All penalties and sums of money recoverable under this Act shall, when recovered, be paid to the Borough or County Council to the credit of the Codlin Moth Fund.

Limitation of actions.

18. No action shall lie against any person for anything done in pursuance of this Act unless such action is commenced within three 20 months after the cause of action has arisen; and in any such action the defendant may plead the general issue, and give this Act and the

General issue.

special matter in evidence.

Schedule.

SCHEDULE.

"THE CODLIN MOTH ACT, 1884."

RETURN of the Number of Trees in the Orchard occupied by the undersigned on the \_\_\_\_\_ day of \_\_\_\_\_, 188 .

Name and Address.	Description of Tree.	Number of each Description.	Remarks.

I, \_\_\_\_\_, of \_\_\_\_\_, do hereby solemnly and sincerely declare that the above Return contains a just and true account of the several matters therein set forth, all which matters I conscientiously believe to be true.

A.B.

Witness :

By Authority GEORGE DIDSBUY, Government Printer, Wellington.—1884.