

Hon. Mr. J. McKenzie.

PHYLLOXERA.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Powers of Governor for preventing introduction of phylloxera. 4. Vines may be seized and destroyed or otherwise disposed of. 5. No person to introduce infected vines or plants. 6. Appointment of Inspectors and other officers. 7. Owner to notify Minister when vineyard infected. 8. Inspector may enter and take steps necessary to eradicate disease. 9. Protection of Inspectors. No compensation payable.</p>	<p>10. Inspector may use force if necessary. 11. Mode in which Inspector to inquire into reported existence of phylloxera. 12. Plants may be dug up for inspection. 13. Inspector may employ assistants. 14. Obstructing or hindering Inspector an offence. 15. Evidence of Inspector's appointment. 16. Evidence of Proclamation or regulation. 17. How notices may be given. 18. Act to apply to owner of unoccupied vineyard. 19. Penalty for offences. 20. Proceedings to be heard before Magistrate alone. 21. Limitation of actions. 22. Governor may make regulations.</p>
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A BILL INTITULED

AN ACT to prevent the Introduction and to provide for the Title.
Destruction of the Insect known as Phylloxera of Vines.

WHEREAS it is expedient to provide measures for preventing the Preamble.
5 introduction and for the destruction of all vines infested with phylloxera, commonly known as the vine-louse:

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 Phylloxera Act, 1895." Short title.
- 2. In this Act, if not inconsistent with the context,— Interpretation.
 - "Diseased" means attacked by phylloxera:
 - "Plant" means a vine or any portion of the same, or any other plant which the Governor from time to time declares liable to carry phylloxera:
 - 15 "Regulation" means any regulation for the time being in force under this Act:
 - "Inspector" means any Inspector appointed under this Act:
 - 20 "Owner or occupier" means the owner or occupier of any land or vinery in or on which grape-vines are growing, and includes the agent of such owner or occupier, and also any joint owner or occupier:
 - "Vineyard or vinery" means any land and any building or structure in or on which any grape-vine is growing.

Powers of Governor for preventing introduction of phylloxera.

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

- (1.) Prohibit, either absolutely or subject to any regulations he deems proper, the introduction into the colony of any portion of a vine or plant, or of any other thing, which, in his opinion, may be likely to introduce phylloxera into this colony. 5
- (2.) Appoint any port or ports to be the only ports of entry for vines in the event of their being admitted under subsection *one* hereof. 10
- (3.) Revoke, either wholly or partially, any Proclamation relating to phylloxera, in force at the time of the coming into operation of this Act, or made under this Act.

Vines may be seized and destroyed or otherwise disposed of.

4. Any vine, plant, or other thing landed in or otherwise introduced into the colony, or attempted to be landed in or otherwise introduced into the colony, in contravention of any Proclamation or regulation, may, together with any package or case containing the same or with which the same may have come in contact, be seized by an Inspector or any person authorised by him, and disinfected, destroyed, or otherwise disposed of, as the Inspector deems fit, at the expense of the owner, and without compensation to the owner or any other person. 15 20

No person to introduce infected vines or plants.

5. Every person who lands in or otherwise introduces into the colony any vine or other thing in contravention of any such Proclamation or regulation, or attempts so to do or is concerned in so doing, or who keeps or sells, or exposes or offers for sale, any vine, plant, or thing infected by phylloxera, or in any manner causes the distribution of phylloxera in any stage of existence, commits an offence. 25

Appointment of Inspectors and other officers.

6. The Governor may from time to time appoint and remove a Chief Inspector, Inspectors, and temporary Inspectors, and such other officers as he deems necessary to carry out the provisions of this Act. 30

Owner to notify Minister when vineyard infected.

7. The owner or occupier of every vineyard or vinery in which no infected plant has previously been found shall, upon discovering or becoming aware of the presence of phylloxera, give notice within twenty-four hours to the Minister for Agriculture, at Wellington, of such vineyard or vinery being infected; and every such owner or occupier who fails or neglects in any such case as aforesaid to give such notice commits an offence. 35

Inspector may enter and take steps necessary to eradicate disease.

8. Every Inspector, and every person authorised by him, may at any time enter into any conveyance, or upon any lands or premises, or on board any vessel, for the purpose of inspecting any vines or plants, and may exercise such other powers and authorities as are necessary for enabling him to enforce the provisions of this Act, and may order the destruction of any vines or plants, and take such measures as regards their treatment or destruction, and the disinfection of any vineyard or vinery, or do such other acts as in his opinion are necessary to eradicate or check the spread of the disease, the cost of such eradication or treatment to be borne by the Government; but no compensation shall be paid to the owner or occupier, or any other person. 40 45 50

Protection of Inspectors.

9. No Inspector, nor any person authorised by him, 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; nor shall any person be entitled to receive any compensation whatsoever in consequence of any measure taken for the eradication of phylloxera, or in respect of any loss or injury that may result to him therefrom, either directly or indirectly.

No compensation payable.

5 10. Every Inspector is hereby empowered, in the exercise of his duties under this Act, to use all necessary force to effect an entry upon any land or premises, or into any conveyance, or on board any vessel, and to obtain and maintain possession of any vines, plants, or packages there found, and for the purposes of this section he shall
10 have all the powers of a constable.

Inspector may use force if necessary.

11. (1.) Any Inspector, on receiving information of the supposed existence of phylloxera, or having reasonable grounds to believe that phylloxera exists, or has within the preceding three months existed, in any place, shall proceed to that place with all practicable speed,
15 and shall inquire into the existence of phylloxera in such place, in the manner hereinafter set forth:—

Mode in which Inspector to inquire into reported existence of phylloxera.

(a.) He may call upon all persons concerned in or having the charge, control, or management of any vines or plants suspected or said to be diseased, to give evidence before
20 him as to the facts within their knowledge relating to such vines or plants.

(b.) If any person, after having received notice to attend for that purpose, refuses or neglects to attend, or to answer any inquiries put to him by the Inspector under the
25 authority of this Act, he commits an offence.

(c.) If any person, in giving such evidence or in answering such inquiries, shall make any statement knowing the same to be false, he commits an offence:

30 But nothing herein contained shall be construed to require any person to give evidence or answer any inquiry which would render him liable to any criminal prosecution.

(d.) If it appears to the Inspector that phylloxera exists, or has within the preceding three months existed, among any such
35 vines or plants, or on the land inspected or examined by himself or any other Inspector, he shall declare such land to be an infected place, and shall forthwith notify the Chief Inspector, who shall cause notice of the fact to be published in the *Gazette*, and in such newspapers circulating in the district where the disease has been ascer-
40 tained to exist as he thinks fit:

(e.) Such notice shall particularly describe the land intended to be affected by the declaration, and such land shall there-
45 upon be deemed to be an infected place, and shall so continue until the Chief Inspector, by notification in the *Gazette*, declares that such place has ceased to be an infected place.

(2.) Every person who plants any vines or plants within the area of an infected place, or who, without the permission in writing
50 of an Inspector, removes any plants or fruits from an infected place, commits an offence.

Plants may be dug up for inspection.

12. If, upon examining any plants, an Inspector suspects the same to be diseased, he may dig up or remove one or more of them for the purpose of deciding whether they are diseased; and, if he decides that any of them are diseased, he may deal as provided in the preceding sections with the remainder of such plants.

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Inspector may employ assistants.

13. Any Inspector may, when necessary, employ any person or persons to assist him in carrying out the provisions of this Act, and may make such remuneration to such person or persons as he deems reasonable.

Obstructing or hindering Inspector an offence.

14. Every person who obstructs or hinders an Inspector, or any person duly employed or authorised by him, whilst in the performance of his duty under this Act, commits an offence.

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But no proceedings for the recovery of any penalty under this Act, nor the payment of such penalty, shall be a bar to any action by any Inspector or person so obstructed or hindered as aforesaid for any personal injury or wrong, but every such action may be commenced and proceeded with as if this Act had not been passed.

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Evidence of Inspector's appointment.

15. The production of the *Gazette* containing any notice of the appointment of any Inspector under this Act shall be evidence of such appointment.

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Evidence of Proclamation or regulation.

16. The production of the *Gazette* containing any Proclamation, regulation, or notice under this Act shall be evidence of such Proclamation, regulation, or notice, and that the same has been lawfully made.

How notices may be given.

17. Where by this Act any notice is required or authorised to be given by any Inspector, the same may be given either by delivering the same personally, or by leaving the same at or by posting the same addressed to the usual or last-known place of abode in the colony of the person to whom the same is addressed.

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Act to apply to owner of unoccupied vineyard.

18. All the provisions of this Act shall be applicable to the owner of any unoccupied land, or vineyard, or vinery, in the same manner in all respects as if such owner were the actual occupier of such land, vineyard, or vinery.

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Penalty for offences.

19. Any person who commits an offence against any of the provisions of this Act is liable to a penalty of not less than *twenty* shillings nor more than *one hundred* pounds for every such offence.

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Proceedings to be heard before Magistrate alone.

20. All proceedings in respect of offences under this Act shall be heard and determined by a Stipendiary Magistrate alone; and all penalties recovered under this Act shall be paid into the Public Account, and form part of the Consolidated Fund.

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Limitation of actions.

21. No action shall lie against any person for anything done in pursuance of this Act, unless such action is commenced within three months after the cause of the action arose, and in any such action the defendant may give this Act and the special matter in evidence.

Governor may make regulations.

22. The Governor may from time to time make such regulations as he thinks fit, in order to give full effect to the provisions and purposes of this Act.

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