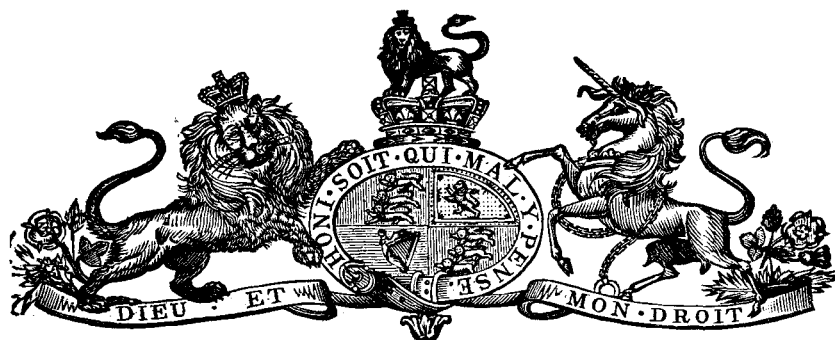


T A S M A N I A



1888.

ANNO QUINQUAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 16.

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AN ACT to make better provision for the Destruction of "the Codlin Moth." A.D. 1888.

[8 October, 1888.]

WHEREAS it is expedient to make better provision for the destruction of the insect known as *Carpocapsa pomonella* or "the Codlin Moth:" PREAMBLE.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Codlin Moth Act, 1888." Short title.

2 "The Codlin Moth Act, 1887," is hereby repealed, but such repeal shall not affect— Repeal. 51 Vict. No. 31.

- i. Anything duly done under the said Act before the passing of this Act:
- ii. Any liability accruing under the said Act before the passing of this Act.

And, excepting so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things done under the said Act, and of any force or effect at the passing of this Act by virtue of the said Act, as if made or done hereunder.

3 In this Act, unless the context otherwise determines— Interpretation.  
"Orchard" means and includes every garden and piece of land in which pepin or stone fruit trees of any description may be growing:

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“The Moth” means the insect known as *Carpocapsa pomonella*, or commonly known in *Tasmania* as “the Codlin Moth,” in any form :

“Infected” means actually infected with the Moth, and where the Moth is or has been present :

“Inspector” means the Chief Inspector or any Inspector of Orchards appointed under this Act :

“Fruit” includes pepin and stone fruit of all descriptions :

“Trees” include pepin and stone fruit trees of all descriptions :

“Prescribed” means prescribed by Regulations under this Act :

“District” or “Fruit District” shall mean a district proclaimed as a Fruit District under this Act :

“Board” shall mean a Board elected in or for any Fruit District under the provisions of this Act :

“Fruitgrower” shall mean the owner or occupier of any orchard in the Fruit District to which reference is made in the context :

“Minister” means the responsible Minister of the Crown administering this Act.

Existing Fruit Districts continued.

**4** The Fruit Districts defined in Schedule (1.) hereto are hereby declared to be Fruit Districts under this Act by the names therein respectively assigned to them, and shall be deemed to have been proclaimed under this Act, and shall be subject to its provisions.

Existing Boards continued.

**5** All existing Boards elected by the Fruitgrowers of any of the Districts mentioned in Schedule (1.) shall be deemed to have been elected under this Act, and shall be subject to its provisions ; and any Tax duly imposed and levied by any of the said Boards under the Act hereby repealed, and unpaid at the date of the passing of this Act, may be collected and recovered in accordance with the provisions of this Act.

Proviso.

Provided that, in every case in which an existing Board has been elected by any Fruit District proclaimed under the Act hereby repealed and in which were included Two or more of the Districts mentioned in Schedule (1.), the Governor in Council shall, by Proclamation published in the *Gazette*, declare which of such Districts shall be the District in which such existing Board shall thereafter have jurisdiction under this Act, and upon the publication of any such Proclamation the Board therein mentioned shall be thereby constituted the Board of the District therein assigned to it as fully and effectually and with all the same rights, powers, privileges, and incidents as if such Board had been elected by such Districts under the provisions of this Act, and such Board shall cease to have and to exercise any jurisdiction or powers, rights, or privileges beyond the boundaries of such District.

Existing officers continued.

**6** All Inspectors, Collectors, and other officers and persons appointed to carry out the provisions of the Act hereby repealed shall be deemed to have been duly appointed, and all such Inspectors, Collectors, and other officers and persons in office at the date of the passing of this Act, shall continue in office notwithstanding such repeal, and shall be deemed to have been duly appointed under the authority of this Act, and shall be subject to its provisions.

Existing Regulations continued.

**7** All Regulations made by the Governor in Council under the provisions of the Act hereby repealed and in force at the date of the passing of this Act shall continue, so far as the same are not inconsistent

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with this Act, to be Regulations under this Act, and shall be deemed to have been made under the authority of this Act. A.D. 1888.

**8** The Governor in Council is hereby empowered from time to time, by Proclamation in the *Gazette*— Governor in Council may declare Districts, &c.

- i. To declare any portion of *Tasmania* as and to be a Fruit District under this Act :
- ii. To assign a specific name to any Fruit District :
- iii. To alter the name of any Fruit District :
- iv. To alter the boundaries of any Fruit District :
- v. To divide any Fruit District into two or more Fruit Districts :
- vi. To unite Two or more Fruit Districts into One Fruit District :
- vii. To abolish any Fruit District.

**9** The Governor in Council shall not exercise any of the powers specified in the last preceding Section until after publication in the *Gazette* of a notice by the Minister, in accordance with the special provision for that purpose hereinafter contained, or until after the presentation and publication, as hereinafter directed, of a petition signed by at least Fifty of the fruitgrowers of the district or portion of the district to be created or affected by the exercise of any such powers. Exercise of the powers hereinbefore conferred on petition.

**10** If within One month after the publication of any such petition as aforesaid a counter-petition, signed by a number of persons qualified to sign a like petition equal to or larger than the number of those who have signed the first petition, shall be presented, no order shall be made on such petition. Counter-petition in certain cases.

**11** Every petition and counter-petition shall be addressed to the Governor in Council, and shall be left with the Minister, which shall be deemed the presentation thereof. Presentation of petitions and counter-petitions.

**12** The same petition may pray for the exercise of any one or more of the powers hereinbefore conferred on the Governor in Council ; and every petition shall be framed so as to enable the subject-matter of such petition to be completely disposed of in one Proclamation. Petition may pray for the exercise of one or more powers, &c.

**13** On the presentation of any petition the Minister shall cause the substance and prayer thereof to be published in the *Gazette*, and the last day on which such petition is so published shall be deemed the day of the publication thereof. Publication of petition.

**14** If in any case in which a petition might be presented under this Act it shall be made to appear to the Governor in Council that it is expedient to exercise any of the powers aforesaid, it shall be lawful for the Minister to publish a notice in the *Gazette* stating the intention of the Governor in Council to exercise such power. Every such notice shall be published in the *Gazette*, and the last day on which such notice is published shall be deemed to be the day of the publication thereof. Exercise of powers without petition.

**15** If within One month after the publication of such notice as is mentioned in the last preceding Section no sufficient cause shall be If no cause shown notice to take effect.

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shown to the Governor in Council why the power proposed to be exercised should not be exercised, it shall be lawful for the Governor in Council to exercise such power in the same manner and to the same extent as if a petition or petitions praying for the exercise thereof had been presented, as hereinbefore provided, and no counter-petition had been presented.

Proclamation to take effect on publication in *Gazette*.

**16** Every Proclamation under the provisions of this Act shall be published in the *Gazette*, and shall take effect as from the day of such publication.

Rectification of errors.

**17** Any error in any Proclamation made under this Act may be rectified by the Governor in Council by any subsequent Proclamation. And no misnomer, inaccurate description, or omission in any such Proclamation shall in any wise suspend or impair the operation of this Act with respect to the matter so misdescribed or omitted.

No objection allowed to preliminary proceedings.

**18** After the exercise of any of the powers aforesaid by any such Proclamation as aforesaid all previous proceedings hereinbefore required shall be deemed to have been duly taken; and no objection shall be allowed on the ground of any defect or irregularity in such proceedings, or any non-compliance with the provisions of this Act.

Fruitgrowers to elect Board.

**19**—(1.) In every District the Fruitgrowers shall elect annually a Board consisting of Seven Members from among such Fruitgrowers; and the first election in each District hereafter proclaimed under this Act shall be held at such place in the District and at such time as the Governor in Council in the Proclamation declaring or defining such District, not being less than Seven nor more than Fourteen days after the publication thereof, shall direct.

(2.) The first election of a Board in any District created by this Act, and in which no Board has been previously elected, shall be held at such place in the District and at such time as the Minister, by Notice published in the *Gazette*, shall direct, such time not being less than Seven nor more than Fourteen days after the publication thereof.

(3.) All subsequent Elections of any Board shall be held in the month of *September* in every year, and retiring Members shall at all times be eligible for re-election.

Chairman of Meeting.

**20** At every Meeting of Fruitgrowers held for the purpose of electing a Board as hereinbefore provided, a Chairman shall be chosen to preside and to act as Returning Officer at the election then to be held; and the voting at all such elections shall be by ballot, and shall be conducted in all matters of detail as the meeting shall determine; and Seven or any larger number of Fruitgrowers shall constitute a meeting for the purpose of electing a Board.

Nomination and election of Board.

**21** The Chairman of every such Meeting for the election of a Board shall appoint a time, not being less than half an hour nor more than One hour, for receiving nominations of candidates for election, such nominations to be in writing, and to contain the consent of the person nominated; and shall also fix a time at the close of the period appointed for receiving nominations for commencing and closing the poll, if any, for such election; and every such poll shall remain open for Two hours at least.

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**22** If no greater number of persons are nominated for election than the number of Fruitgrowers then to be elected as Members of the Board, the Chairman shall, at the expiration of the time appointed for receiving nominations, without any poll being had, declare the persons so nominated to be elected as Members of the Board ; and the persons so declared to be elected shall thenceforth be Members of the Board for the purposes of this Act.

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Mode of proceeding if no more persons nominated than Members to be elected.

**23**—(1.) Forthwith after any election of any Board the Chairman presiding at the meeting at which such election took place shall notify to the Minister in writing, signed by such Chairman, the names and places of residence respectively of every Member of the Board so elected.

Chairman to notify to Minister names of Members elected.

(2.) The Minister upon receipt of such notice, shall cause to be published in the *Gazette* the names of the Members of the Board so elected, and shall also cause notice in writing of his election and of the time and place of the first meeting of the Board to be served personally on, or left at the usual place of abode of, or transmitted by post to every person so elected.

Minister to publish names of Members.

**24** All elections subsequent to the first election of any Board in any District shall be conducted as hereinbefore prescribed, except that it shall be the duty of the Board through its Chairman to convene the meeting of Fruitgrowers for the election of Members, by giving not less than Seven days' public notice in the District of the time and place at which such meeting shall be held.

Subsequent election of Members.

**25** Any Four Members of the Board shall constitute a quorum for the transaction of business ; and all questions considered at any meeting shall be decided by a majority of the votes of the Members present ; and if there is an equal division of votes upon any question it shall be deemed to be lost.

Quorum.

All questions decided by a majority.

**26** If any duly elected Member of a Board, at any time before the expiration of the period for which he was elected, dies, or resigns, or refuses, or for any cause whatsoever becomes incapable to act, or if the place of any Member of any Board is declared vacant as hereinafter provided, it shall be lawful for the remaining Members of such Board to appoint another fruitgrower of the District to act as a Member of the Board in the place of the Member dying, or resigning, or refusing or becoming incapable to act as aforesaid, or in the place of the Member whose place has been declared vacant, as the case may be. But if at any one time there shall be three or more vacancies in any Board, the Chairman, or the remaining Members of the Board, shall convene a meeting of the Fruitgrowers of the District for the purpose of electing a sufficient number of members to fill such vacancies.

Extraordinary vacancies to be filled by Board.

**27** If any Member of a Board shall be absent from Three consecutive meetings of the Board, after having had due notice of each meeting from which he shall be absent, and shall not have had leave of absence granted to him by resolution of the Board on account of illness or other sufficient cause, the Board shall declare the place of such Member to be vacant.

Member's place may be declared vacant.

**28** If prior to the Fifteenth day of *September* in any year any Board shall fail to convene as aforesaid the Annual Meeting of Fruit-

Fruitgrowers may convene meeting if Board fails to do so.

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growers for the election of Members, it shall be lawful for any Seven Fruitgrowers of the District to convene a meeting for the election of a Board by giving a similar notice of the time and place at which such meeting shall be held as is hereinbefore directed to be given of meetings to be convened by the Board; and in case no election of Members is held in any year in manner herein directed, the Members then in office shall continue in office until the day which is fixed in the month of *September* in the succeeding year for the Annual Meeting of Fruitgrowers, or until the election of new Members, and so from time to time.

If no Board elected, Governor in Council may appoint officers.

**29**—(1.) If within the time fixed by any such Proclamation as aforesaid for the election of a Board in any District, no such Board shall have been elected, it shall be lawful for the Governor in Council to extend the time during which such election may be held, or to appoint for such District such officer or officers as he shall see fit to carry out the provisions of this Act.

If Board refuse to act.

(2.) If any Board elected for any District shall neglect or refuse to carry out the provisions of this Act in an efficient manner, it shall be lawful for the Governor in Council to appoint such officer or officers as he shall see fit to carry out the provisions of this Act in such District.

Officers appointed by Governor in Council paid out of funds of District.

(3.) Whenever, in consequence of any District neglecting to elect a Board, or of any Board neglecting or refusing to carry out the provisions of this Act in an efficient manner, the Governor in Council shall appoint any such officer or officers as aforesaid, all the powers hereby vested in any Board elected under this Act shall thereupon become vested in the Governor in Council, and every such officer or officers appointed by the Governor in Council as aforesaid shall be paid such salary or salaries as the Governor in Council shall see fit out of the proceeds of any tax levied by the Governor in Council upon the orchards in the District or Districts to which such officer or officers may be appointed.

If Governor appoint officer no Board to be elected, &c.

**30** Whenever any District shall fail to elect a Board, the Governor in Council shall thereupon, in exercise of the powers hereinbefore conferred upon him for that purpose, appoint an officer or officers to carry out the provisions of this Act in such District; and a notice, signed by the Minister, that such District has failed to elect a Board, and that the officer or officers named in such notice has or have been appointed by the Governor in Council to carry out the provisions of this Act in such District, shall thereupon be published in the *Gazette*; and thereafter no Board shall be elected in such District until a petition signed by a majority of Two-thirds of the Fruitgrowers of such District shall be presented to the Governor in Council praying that a day may be appointed for the election of a Board in such District; and the Governor in Council shall not appoint a day for the election of a Board in such District in accordance with the prayer of any such petition earlier than the 15th day of the month of *September* in the Second year after the publication in the *Gazette* of such notice as aforesaid.

When Board neglect to act, and officer appointed, no Board to be elected, &c.

**31** The powers hereinbefore vested in the Governor in Council in respect of any District in which the Board elected by the Fruitgrowers thereof neglects or refuses to carry out the provisions of this Act, shall be exercisable by the Governor in Council upon the report in writing of any Inspector appointed by the Governor in Council under this Act that such Board is neglecting or refusing to carry out the

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provisions of this Act in an efficient manner; and upon receipt of any such report from any such Inspector as aforesaid the Governor in Council shall, in exercise of the powers hereinbefore conferred upon him for that purpose, appoint an officer or officers to carry out the provisions of this Act in such District, and a notice signed by the Minister that it has been made to appear to the satisfaction of the Governor in Council that such Board is neglecting or refusing to carry out the provisions of this Act as aforesaid, and that the officer or officers named in such notice has or have been appointed by the Governor in Council to carry out the provisions of this Act in such District, shall thereupon be published in the *Gazette*; and thereafter no Board shall be elected in such District until a petition signed by a majority of Two-thirds of the Fruitgrowers of such District shall be presented to the Governor in Council praying that a day may be appointed for the election of a Board in such District; and the Governor in Council shall not appoint a day for the election of a Board in such District in accordance with the prayer of such petition earlier than the 15th day of the month of *September* in the Second year after the publication in the *Gazette* of such notice as aforesaid.

**32** The manner in which the Governor in Council shall appoint a day for the election of a Board in any District in respect of which he has previously appointed an officer or officers to carry out the provisions of this Act therein as hereinbefore provided, shall be by Proclamation published in the *Gazette* Fourteen days at least before the day so appointed for such election; and such Proclamation shall appoint the time and place at which such election shall take place.

Governor in Council to proclaim time and place of election.

**33** Every Board shall hold their first meeting after their election at such time and place as the Minister shall appoint and shall at such first meeting appoint a Chairman, a Secretary, a Collector, and a Treasurer, and shall publish in the *Gazette* a notification of all such appointments signed by the Chairman within Fourteen days after the meeting at which the appointment so notified was made; and in the absence of the Chairman from any meeting of the Board the Members present shall elect a Chairman from those present, who shall preside at such meeting.

Board to appoint officers.

**34** Every Board shall appoint an Inspector or Inspectors for the District for which the Board has been elected, or shall appoint one or more of the members of the Board to exercise all the functions of an Inspector or Inspectors as hereinafter provided.

Board to inspect orchards or appoint Inspector.

**35** No Member of the Board shall receive any payment for his services; but any officer of the Board, not being a Member of the Board, may be paid, out of the moneys at the disposal of the Board, such salary or allowance as the Board shall determine.

Payment of officers.

**36** The occupier of every orchard shall, on or before the First day of *December* in every year, deliver to the Chairman of the Board, or if there be no Board for the District in which the orchard is situate, then to such officer as the Governor in Council may appoint, a Return in the form in Schedule (2.) stating the number of acres planted with fruit trees on the first day of *September* in every year; and every such occupier who refuses or neglects to make such Return

Return of acreage.

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- A.D. 1888. — within the prescribed time shall forfeit and pay a penalty not exceeding Five Pounds. And for the purposes of this Act any fraction of an acre shall be deemed to be an acre, except in cases of orchards not exceeding half an acre in area, which orchard shall be deemed to be half an acre in area.
- Verification of acreage. **37** Every such Return shall be in the form in Schedule (2.), and signed by the person required to make the same; and any person wilfully making any false Return shall forfeit and pay a penalty not exceeding Five Pounds.
- Roll of Fruit-growers to be prepared. **38** Every Board shall, in the month of *January* in every year, prepare a Roll of Fruitgrowers of the District, in which Roll there shall be set opposite to the name of each Fruitgrower, in separate columns, the number of acres in the orchard or orchards owned or occupied by him, and the amount of the Tax payable by such Fruitgrower in respect of such orchard or orchards upon the basis of the last Tax levied by the Board, and such Roll shall be the Roll of Fruitgrowers to be used at the next election of a Board in such District: Provided, that the Chairman of the Meeting held for the purpose of such election shall have power to insert in such Roll the name of any Fruitgrower of the District whose name has been omitted therefrom.
- Chairman to furnish names of Fruitgrowers. **39** The Chairman of every Board shall, on or before the First day of *March* in every year, furnish to the Chief Inspector a Return, signed by such Chairman, showing the number of Fruitgrowers of the District whose names are on such Roll as aforesaid, and the acreage of all the orchards owned or occupied by such Fruitgrowers as shown by such Roll as aforesaid, and the total amount of the Tax payable by such Fruitgrowers upon the basis of the last Tax levied by such Board, and the amount of Tax collected from such Fruitgrowers up to the date of the Return.
- Power of Board to levy a Tax. **40** Every Board shall have the power to impose and levy annually a Tax not exceeding Four Shillings per acre on every orchard within the District, and every occupier of orchards shall pay such tax to the Treasurer or Collector of the Board.
- Tax to be payable on a certain day. **41** Every Tax imposed by any Board shall be made payable on a day not earlier than Fourteen days after the day on which such Tax is imposed.
- Notice of Tax to be published in *Gazette*. **42** A notice of every Tax imposed by any Board under this Act, signed by the Chairman and Treasurer of such Board, shall be published in the *Gazette* within Fourteen days after the same has been imposed, and such notice shall specify the amount of the Tax and the day upon which the same is payable, and no proceedings shall be commenced against any person for the recovery of such Tax until the expiration of One month after the date mentioned in such notice as the day on which the same is payable.
- Occupier liable to tax in the first instance. **43** Every Tax imposed under this Act shall be payable in the first instance by the occupiers of the orchards in respect of which the Tax is made payable at the time the Tax is imposed; but every occupier, if tenant, shall be entitled to recover from his



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landlord one-half of the amount of such Tax paid by or recovered from him as money paid to the use of the landlord, or the same may be deducted from or set off against the rent then due or thereafter to become due; and such landlord, if tenant to another of the same orchard, may in like manner recover or deduct from his landlord a sum equal to that recovered or deducted from him as aforesaid, and so on between successive landlords and tenants.

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**44** Every Tax imposed by the Governor in Council upon the orchards of any District under the authority of this Act shall be a Tax of a fixed sum per acre, and may be collected, demanded, and recovered by any Inspector or other person appointed by the Governor in Council for that purpose; and a notice of the day on which every such Tax is payable shall be published in the *Gazette*; and every such Tax shall be recoverable in the same manner and by the same process as any Tax levied by any Board is made recoverable by this Act.

Tax imposed by Governor in Council.

**45** All moneys received by the Collector of any Board shall be paid over by him to the Treasurer of such Board, and all moneys received by the Treasurer of any Board shall be paid by him into a bank to the credit of an account in the name of the Board of which he is Treasurer; and all moneys disbursed by the Board shall be paid by cheques drawn upon such account, and all such cheques shall be signed by the Treasurer and Chairman of the Board, or, in the absence of either the Chairman or Treasurer, by Two other Members of the Board and the Chairman or Treasurer, as the case may be.

Treasurer to pay all money into bank.

**46** The Treasurer of every Board shall submit accounts of all monies received and disbursed by such Board for inspection by the Auditor-General as often as he shall be required to do so.

Accounts to be submitted for audit.

**47** All proceedings at any meeting of any Board, together with the names of the Members present at every such Meeting, shall be entered in a Book to be kept by the Board for that purpose, and be signed by the Chairman of the Meeting at which such proceedings are, from time to time, confirmed; and all entries of any such proceedings so confirmed and signed by the Chairman of such Meeting shall be received in all Courts as evidence of the matters recorded until the contrary be proved.

Orders and proceedings of Board to be recorded.

**48** If in any year the Fund raised by the Board by a Tax of Four Shillings per acre should prove insufficient to defray all lawful charges thereon, it shall be lawful for the Governor in Council, on the petition of the Board, to authorise the levy of an additional Tax, not exceeding Six Shillings per acre, for the purpose of making good the amount of such deficiency.

Governor in Council may authorise additional Tax.

**49** Every occupier who, upon the expiration of One month after the same becomes payable by him, omits or refuses to pay any Tax imposed under this Act, shall be liable to pay an additional amount equal to one-fourth part of such Tax, and it shall be lawful for any Collector to sue for and recover such Tax, and such additional amount, at any time after the expiration of the said period of One month, not being more than One year after the date on which such Tax was payable.

Contribution not paid in time.

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Powers of  
Inspectors.

**50** Every Inspector shall have, exercise, and discharge the several powers, authorities, and duties prescribed, and may at any reasonable time enter upon any orchard in any district for the purpose of inspecting the trees in such orchard, and the fruit thereon and all other fruit, and may at any reasonable time also enter any ship, boat, shop, store, or other building or place in any district in which he may have reason to believe that any trees, fruit, cases, boxes, barrels, or other receptacles containing or supposed to contain fruit, or in which fruit has at any time been placed, are deposited, for the purpose of inspecting the state and condition thereof, and examining the same, or of the fruit therein, and may open or cause to be opened any such case, box, barrel, or other receptacle.

Penalty for  
obstructing In-  
spector.

**51** If any person refuses to allow any Inspector to enter at any reasonable time on his orchard, ship, boat, shop, store, or other building or place, or to examine any trees, fruit, cases, boxes, barrels, or other receptacles being therein or thereon, or impedes, hinders, or attempts to impede or hinder, any Inspector from examining any such trees, fruit, cases, boxes, barrels, or other receptacles, such person shall forfeit and pay a penalty not exceeding Five Pounds for each offence.

Occupier of  
orchard to give  
notice of infected  
tree or fruit.

**52** The occupier of every orchard in which no moth or no infected tree or fruit has previously been found shall upon discovering or becoming aware of the presence of the moth or any infected tree or fruit therein, give notice to an Inspector or to the Board of such orchard being so infected; and every such occupier who fails or neglects in any such case as aforesaid to give such notice as aforesaid shall be liable to a penalty not exceeding Ten Pounds.

Owner of unoccu-  
pied orchard to be  
deemed to be  
occupier.

**53** 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.

Governor in  
Council to appoint  
Chief Inspector.

**54** It shall be lawful for the Governor in Council from time to time to appoint a Chief Inspector and such other Inspectors or Officers as he sees fit for the purposes of this Act, and may from time to time remove any such Chief Inspector or other Inspectors or Officers as aforesaid. And all powers and duties imposed by this Act or by any Regulations issued hereunder upon Inspectors appointed under this Act may be exercised by any such Inspector appointed by the Governor in Council as aforesaid.

Contribution of  
salaries of In-  
spector appointed  
by Governor in  
Council.

**55** Every Fruit District shall in every year contribute towards the salary or salaries of any Inspector or Officer appointed by the Governor in Council under the authority of this Act, or towards any expenses incurred by the Governor in Council under the authority of this Act, such sum not exceeding Sixpence per acre as shall be fixed by a Regulation made by the Governor in Council for that purpose; and such contribution shall be paid by the Board of each District to the Treasurer, at such time as the Governor in Council shall appoint, out of the proceeds of any Tax levied by such Board under the authority of the Act; and in the event of any Board omitting to levy a Tax, or omitting, or neglecting, or being unable from any cause whatever to pay such contribution when the same is demanded, it shall be lawful

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for the Governor in Council to impose, levy, and collect a sufficient Tax upon the orchards of such District to produce the amount of contribution demanded from such District, and all costs of imposing levying, and collecting the same ; and every such Tax shall be levied and collected and shall be recoverable in the manner provided in Section Forty-four. A.D. 1888.

**56** The Governor in Council may from time to time make, and from time to time rescind and alter, Regulations—

For the guidance of Boards and their officers in the performance of their duties :

For prescribing the manner in which, and the times at which, the occupier of every orchard shall—

(a.) Give notice of his orchard being infected :

(b.) Bandage, dress, or otherwise treat infected trees in his orchard :

(c.) Furnish any return required by this Act :

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

For prescribing the manner in which and the time or times when any box, barrel, bag, or other receptacle which has contained the Moth or any infected fruit shall be cleansed and rendered fit for further use :

For prescribing the manner in which and the time or times when 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.

And the Governor in Council may, by any Regulation, prescribe a penalty not exceeding Five Pounds for breach of or non-compliance with any such Regulation.

All Regulations shall be published in the *Gazette*, and in one newspaper published in *Hobart* and in one newspaper published in *Launceston*, and thereupon shall have the force of Law ; and copies thereof shall be laid before both Houses of Parliament forthwith, if sitting, and if not sitting then within Fourteen days after the commencement of the next Session.

**57** If any Inspector, or any other Officer of any Board, 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.

**58** No person shall convey into any part of the Colony any fruit infected with the Moth, or any case, box, barrel, bag, or other receptacle containing the Moth or any infected fruit, or which has at any time contained any infected fruit, unless the same has been previously cleansed in accordance with the Regulations made under this Act or otherwise to the satisfaction of an Inspector ; and if any person offends against this provision he shall be liable to a penalty not exceeding Ten Pounds. Infected fruit cases, &c. not to be conveyed into any part of the Colony.

**59** Every person who sells or offers or exposes for sale any fruit infected with the Moth shall be liable to a penalty not exceeding Five Pounds. Infected fruit.

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Board may  
order trees to be  
cut down.

**60** It shall be lawful for the Board of any District from time to time to require the occupier of any orchard within such District to cut down within One month after receiving notice in writing signed by the Chairman and Secretary of the Board so to do, and within such distance from the ground as shall be required by such notice, any decayed or diseased trees growing in such orchard; and every occupier failing to comply with any such notice shall for every such offence forfeit and pay a penalty not exceeding Five Pounds.

Proof of fruit, &c.  
not being infected.

**61** 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 mentioned herein or in any Regulation was not infected with the Moth, or that any case, box, barrel, bag, or other receptacle has not at any time contained the moth or any infected fruit, shall rest upon the defendant.

Recovery of  
penalties.

**62** All sums of money recoverable from any occupier under this Act, and all penalties imposed or made payable by this Act, shall be recovered in the mode prescribed by "The Magistrates Summary Procedure Act."

Appropriation of  
penalties.

**63** All penalties and sums of money recoverable under this Act shall, when recovered, be paid into the Fund of the District in which the action arose.

Limitation of  
actions.  
General issue.

**64** 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 action has arisen; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence.

Assessment or  
Valuation Roll  
evidence of occu-  
pier or owner.

**65** In any proceedings under this Act for any breach of or non-compliance with the provisions thereof, a copy of the *Gazette* containing any Valuation or Assessment Roll then in force, in which the name of the defendant shall appear as occupier or owner of any land in respect of which such proceedings may be taken, shall, on production only and without any proof, be deemed sufficient *prima facie* evidence that such person was at the time alleged in the information the occupier or owner of such land; and the onus of proving that he was not at the time alleged such occupier or owner shall in all cases rest on the defendant, who shall be competent and compellable to give evidence in any such proceedings, any Statute or Rule of Law to the contrary notwithstanding.

Governor in  
Council may vest  
powers of Board  
in Council of  
Municipality.

**66** Whenever the boundaries of any Fruit District shall be made coterminous with the boundaries of any Municipality, it shall be lawful for the Governor in Council, by Proclamation published in the *Gazette* to declare that all the powers herein conferred upon the Board to be elected by the Fruitgrowers of such District shall thereafter be vested in and exercisable by the Council of such Municipality, and all the provisions hereinbefore contained relating to the annual election of Boards shall thereupon cease to apply to such District. But the powers conferred on the Governor in Council by Section Twenty-nine shall, notwithstanding the publication of any such Proclamation, continue to be exercisable by him in respect of every such District, and the said

*Codlin Moth.*

Section shall, after the publication of any such Proclamation, be read in respect of the District mentioned therein as if the word "Council" were substituted for the word "Board" in the Second and Third Subsections thereof. A.D. 1888.

**67** Whenever the Governor in Council shall exercise the powers conferred upon him by Section Twenty-nine in respect of any District after the powers hereinbefore conferred upon the Board to be elected by the Fruitgrowers thereof have been vested in the Council of the Municipality with the boundaries whereof the boundaries of such District are coterminous, such Council shall, upon the publication of a Notice signed by the Minister that the Governor in Council had appointed the officer or officers therein named to carry out the provisions of this Act in such District, cease to possess and exercise the powers aforesaid until a petition signed by not less than Two-thirds of the Fruitgrowers of such District shall be presented to the Governor in Council praying that the possession and exercise of the powers aforesaid may be restored to the Council of such Municipality; and the Governor in Council may, upon the receipt of such petition, notify by Proclamation published in the *Gazette* that the possession and exercise of the powers aforesaid have been restored to the Council of such Municipality; but no such Proclamation shall be published before the Fifteenth day of *September* in the Third year after the publication in the *Gazette* of the Notice that the Governor in Council had, in exercise of the powers conferred upon him by the said Section Twenty-nine, appointed an officer or officers to carry out the provisions of this Act in such District. Such powers vested in Council to cease on publication of notice, &c.

**68** The liabilities duly incurred by the Board of any District which has been divided or abolished or united with any other District shall be transferred in such proportions as the Governor in Council shall determine to the Board or Boards of the District or Districts in which the area of the abolished or divided or united District is contained. Transfer of liabilities.

**69** Whenever any Fruit District is abolished, or is divided into two or more Districts, or whenever the powers and functions of the Board of any District are transferred to and vested in the Council of any Municipality as hereinbefore provided, all moneys in any bank to the credit of the Board of the District which has been abolished or divided, or whose powers and functions have been transferred as aforesaid, and all moneys in the hands of the Treasurer or any Collector of any such Board, or thereafter collected or recovered by such Treasurer or Collector as hereinafter mentioned, shall be available by such Board for the discharge of any liabilities previously incurred by such Board, and the balance, if any, shall be payable to the Treasurer of *Tasmania* to be paid over in such proportions as the Governor in Council shall determine to the Boards of the Districts into which such Fruit District as first aforesaid has been divided, or to the Council of such Municipality as aforesaid, or, in the case of the abolition of any District, may be appropriated in such manner as the Governor in Council may determine to the purposes of this Act; and any unpaid taxes imposed by the Board of such first-mentioned Fruit District may be collected and recovered by the Treasurer or Collector of such District notwithstanding its division or abolition as aforesaid. Appropriation of funds in the case of abolition or division of Districts.

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When new District created proportion of Tax previously collected from Fruitgrowers in new District to be paid to new Board.

**70** In any case in which the Fruitgrowers of any District defined in Schedule (1.) are, or have been liable to the payment of a Tax levied by the Board of another District in which such first-mentioned District as aforesaid was included at the date such Tax was levied, the amount of the Tax paid by such Fruitgrowers shall be repaid by the Board which has collected the same to the Board of such first-mentioned District as aforesaid, subject to such deductions for the cost of collection or other expenditure incurred by the Board which has collected the Tax as the Governor in Council shall determine, and such repayment of the amount of the Tax so paid by such Fruitgrowers shall be enforceable by an Order of the Supreme Court upon Petition by the Board to which such repayment is to be made: Provided that the costs and expenses incurred by the Board which has collected the Tax by reason of the appointment of any officer for any fixed period shall be apportioned between the two Districts. And for the purpose of determining at what date such first-mentioned District as aforesaid became a separate District, all Proclamations purported to be issued and made under the authority of the Act hereby repealed are hereby declared to be and always to have been valid and authorised by the said Act.

No fees payable in proceedings by Inspectors under this Act.  
19 Vict. No. 8.

**71** No fee or fees shall be payable under *The Magistrates Summary Procedure Act* or otherwise by any Inspector in respect of any proceedings instituted by such Inspector against any person for any breach of this Act or any Regulations made hereunder, or for any expenses incurred under this Act.

On persistent refusal of occupier Inspector may enter and destroy.

**72** If the occupier of any orchard shall neglect or refuse to comply with the provisions of this Act, or with any Regulations made hereunder for the destruction of the Moth, it shall be lawful for the Board or the Governor in Council to authorise an Inspector to enter upon such orchard, with so many assistants as he shall deem necessary for the purpose, and to perform all such acts as this Act or the Regulations direct or require occupiers of orchards to perform for the destruction of the Moth; and all costs and expenses incurred by the Inspector in so doing shall be recoverable from the occupier of such orchard by action or plaint in any Court of competent jurisdiction, or by complaint under *The Magistrates Summary Procedure Act*.

Tax may be remitted on account of poverty.

**73** It shall be lawful for any Board, upon the complaint of any person liable to the payment of any Tax, to remit or excuse the payment thereof or any part thereof on account of the poverty of such person.

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## SCHEDULE.

(1.)

### NAME AND DESCRIPTION OF FRUIT DISTRICTS.

*Fruit District of North Huon.*

Comprises the Road Districts of Victoria and Woodstock.

*Fruit District of Upper Huon.*

Comprises the Road District of Upper Huon.

*Codlin Moth.**Fruit District of Franklin.*

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Comprises the Road District of Huon.

*Fruit District of Central Huon.*

Comprises the Road Districts of Liverpool and Surges Bay.

*Fruit District of South Huon.*

Comprises all such portions of the House of Assembly Electoral District of Franklin which are not embraced within the Fruit Districts of Upper Huon, Franklin, and Central Huon.

*Fruit District of Port Cygnet.*

Comprises the Road District of Port Cygnet.

*Fruit District of Gordon.*

Comprises the Road District of Gordon.

*Fruit District of North West Bay.*

Comprises all that portion of the Road District of Kingston lying between the North West Bay River and the Road District of Gordon.

*Fruit District of Longley.*

Comprises the Road District of Longley.

*Fruit District of Queenborough.*

Comprises all such portions of the House of Assembly Electoral District of Kingborough which are not embraced within the Fruit Districts of North Huon, Port Cygnet, Gordon, North West Bay, and Longley.

*Fruit District of Hobart.*

Comprises the City of Hobart.

*Fruit District of Glenorchy.*

Comprises the House of Assembly Electoral District of Glenorchy.

*Fruit District of New Norfolk.*

Comprises the House of Assembly Electoral District of New Norfolk and so much of the House of Assembly Electoral District of Cumberland as is bounded on the east by the River Derwent, on the north by the Florentine River, and on the south by the Russell's Falls River.

*Fruit District of Cumberland.*

Comprises so much of the House of Assembly Electoral District of Cumberland as is not included in the Fruit District of New Norfolk.

*Fruit District of Tasman's Peninsula.*

Comprises the Road District of Tasman's Peninsula.

*Fruit District of Sorell.*

Comprises all such portions of the House of Assembly Electoral District of Sorell which are not embraced within the Fruit District of Tasman's Peninsula.

*Fruit District of Spring Bay.*

Comprises the Road District of Spring Bay.

*Fruit District of Glamorgan.*

Comprises the Road District of Glamorgan.

*Fruit District of Brighton and Richmond.*

Comprises the House of Assembly Electoral Districts of Brighton and Richmond.

*Midland Fruit District.*

Comprises the House of Assembly Electoral Districts of Oatlands and Campbell Town.

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*Fruit District of Longford.*

Comprises the House of Assembly Electoral Districts of Longford, Evandale, and Cressy.

*Fruit District of Westbury and Deloraine.*

Comprises the House of Assembly Electoral Districts of Westbury and Deloraine.

*Fruit District of Fingal.*

Comprises the House of Assembly Electoral District of Fingal.

*Fruit District of Ringarooma.*

Comprises the House of Assembly Electoral District of Ringarooma.

*Fruit District of Launceston.*

Comprises the Town of Launceston and the House of Assembly Electoral District of Selby.

*Fruit District of George Town.*

Comprises the House of Assembly Electoral District of George Town.

*Fruit District of Mersey.*

Comprises the House of Assembly Electoral District of East Devon.

*Fruit District of West Devon.*

Comprises the House of Assembly Electoral District of West Devon.

*Fruit District of Circular Head.*

Comprises the Municipal District of Russell.

*Fruit District of Wellington.*

Comprises all such portion of the House of Assembly Electoral District of Wellington which is not embraced in the Fruit District of Circular Head.

(2.)

Sects. 36 &amp; 37.

## "THE CODLIN MOTH ACT, 1888."

RETURN of the Number of Acres planted in Orchard occupied by the undersigned on the First of *September*, 18 .

Name and Address.	Area of Orchard.	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.

*Signature.*