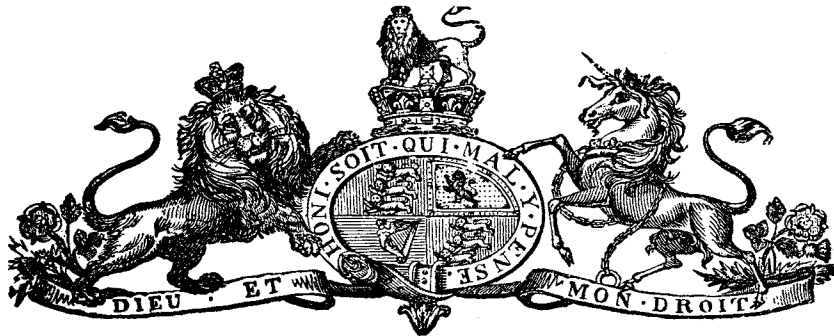


T A S M A N I A.

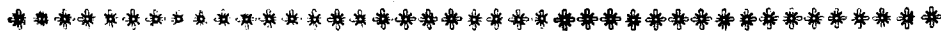


1887.

ANNO QUINQUAGESIMO-PRIMO

VICTORIÆ REGINÆ,

No. 31.



AN ACT to make further provision for the A.D. 1887.
Destruction of "the Codlin Moth."
[20 December, 1887.]

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

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, 1887." Short title.
- 2** In this Act, unless the context otherwise determines— Interpretation..
 - "Orchard" means and includes every garden and piece of land in which pepin and stone fruit trees of any description may be growing:
 - "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:

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“Inspector” means an 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.

Districts to be proclaimed.

3 The Governor in Council is hereby empowered from time to time to declare by Proclamation in the *Gazette* any portion of *Tasmania* described or defined in such Proclamation as and to be a Fruit District under this Act.

Boundaries may be altered.

4 Any District proclaimed as a clean or unclean District under the Act hereby repealed shall be deemed to be proclaimed a District under this Act; and the Governor in Council shall have power to alter the boundary of any such District or of any District hereinafter proclaimed, if he shall think fit, upon the receipt of a petition praying for such alteration of any boundaries, and signed by a majority of the Fruitgrowers in such District, unless a counter petition signed by a majority of the Fruitgrowers whose orchards will be affected by such altered boundary shall be received by him within the time hereinafter mentioned. Any petition praying for any alteration of the boundary of any District shall be published in the *Gazette*, and once in a newspaper published nearest to such District; and if within Thirty days from the last publication of such notice no counter petition shall have been received, then the Governor in Council may forthwith proclaim the District with the new boundaries defined.

Fruitgrowers to elect Board.

5—(1.) In every District the Fruitgrowers shall elect annually a Board consisting of Seven Members from among such Fruitgrowers; and when any District is proclaimed by the Governor in Council for the purposes of this Act, the Governor shall in such Proclamation direct that, at a time and place therein named, there shall be held within the said District a meeting of the Fruitgrowers for the purpose of electing from amongst such Fruitgrowers Seven persons as and to be the Board of such District for the purposes of this Act; and such election shall be held accordingly.

(2.) The first election in all Districts already proclaimed shall take place at such time and place as the Governor may, by Proclamation published in the *Gazette*, direct.

(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.

Voting.

6 The voting at all elections shall be by ballot, and the election shall be conducted as the meeting shall determine; and Seven or any larger number of Fruitgrowers shall constitute a meeting for the purpose of electing a Board.

Subsequent elections of Members.

7 All elections subsequent to the first election of any Board in any District shall be conducted as hereinbefore prescribed, except that it

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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. **A.D. 1887.**

8 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.

9 If prior to the Fifteenth day of *September* in any year any Board shall fail to convene as aforesaid the Annual Meeting of Fruitgrowers 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. **Fruitgrowers may convene meeting if Board fails to do so.**

10—(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 no Board elected, Governor in Council may appoint officers.**

(2.) If any Board elected for any District shall neglect or refuse to carry out the provisions of this Act 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. **If Board refuse to act.**

(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, 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 upon the orchards in the District or Districts to which such officer or officers may be appointed. **Officers appointed by Governor in Council paid out of funds of District.**

11 Every Board at their first meeting after election shall appoint a Chairman, a Secretary, a Collector, and a Treasurer, and shall have power within their own District to do all things necessary for carrying out the provisions of this Act; 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.**

12 Every Board shall in their collective capacity, or by delegating their powers to one or more of their members, exercise any or all of the functions of an Inspector as hereinafter provided; and may, as often and for such period as they may deem necessary, appoint an Inspector or Inspectors for their own District. **Board may inspect orchards or appoint Inspector.**

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Payment of
officers.

13 No Member of the Board shall receive any payment for his services ; but an Inspector or Collector, 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.

Power of Board
to levy a tax.

14 Every Board shall have the power to 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 Collector of the Board, who shall pay it over to the Treasurer of the Board ; and all moneys collected in any District under the Act hereby repealed, and now in the Treasury to the credit of such District, shall be paid over by the Governor in Council to the Treasurer of the Board of such District.

Occupier liable
to tax in the first
instance.

15 The tax imposed under this Act shall be payable in the first instance by the occupier of the orchard at the date at which the tax becomes due or is sought to be recovered, as the case may be ; but every occupier, if tenant, shall be entitled to recover from his 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.

Treasurer to open
a banking account,
and submit ac-
counts for audit.

16 The Treasurer of every Board shall open a banking account, and shall submit all his accounts to the inspection of the Government Auditor as often as he shall be required to do so.

Governor in
Council may
authorise
additional tax.

17 If at any time the Fund raised by the Board by the acreage tax of Four Shillings per annum 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 Four Shillings per acre, for the purpose of making good the amount of such deficiency.

Return of acreage.

18 The occupier of every orchard shall 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 the Schedule, stating the number of acres planted in orchard on the First day of *September* in every year ; and every such occupier who refuses or neglects to make such Return within the prescribed time shall forfeit and pay a penalty not exceeding Five Pounds. And any fraction of an acre shall be deemed to be an acre for the purposes of this Act.

Verification of
acreage.

19 Every such Return shall be verified by Declaration in the form in the Schedule, made before any Justice of the Peace, that the matters contained in such Return are true ; and any person wilfully making such Declaration falsely shall forfeit and pay a penalty not exceeding Five Pounds.

Contribution not
paid in time.

20 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 ;

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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 Collector 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. A.D. 1887.

21 Every Inspector shall have, exercise, and discharge the several powers, authorities, and duties prescribed, and may at any reasonable time enter upon any orchard 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, 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.

22 The occupier of every orchard in which there shall be any infected tree or fruit shall give notice in writing to an Inspector or to the Board of such tree or fruit being so infected; and every such occupier who fails or neglects to give such notice as aforesaid shall be liable to a penalty not exceeding Ten Pounds. Occupier of orchard to give notice of infected tree or fruit.

23 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. Owner of unoccupied orchard to be deemed the occupier.

24 It shall be lawful for the Governor in Council from time to time to appoint a Chief Inspector for the purposes of this Act, and from time to time to fix by Regulation the amount to be contributed by each District towards the salary of such Chief Inspector, and the time at which such contribution shall be paid; and the Governor in Council may from time to time remove any such Chief Inspector. 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 Chief Inspector as aforesaid. Governor in Council to appoint Chief Inspector.

25 The amount of contribution fixed by the Governor in Council as aforesaid to be paid by any District towards the salary of any Chief Inspector shall be paid by the Board of such District to the Treasurer out of the proceeds of any tax levied by such Board under this Act. Amount of contribution to be fixed by Governor.

26 The Governor in Council may from time to time make, and from time to time rescind and alter, Regulations— Regulations.

For the guidance of Boards and Inspectors and prescribing 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 infected fruit shall be destroyed or rendered fit for the food of any animal:

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

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.

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.

Penalty on Inspector for breach of Regulations.

27 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.

Infected fruit, cases, &c. not to be conveyed into any part of the Colony.

28 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 which has at any time contained any infected fruit; and if any person offends against this provision he shall be liable to a penalty not exceeding Ten Pounds.

Infected fruit.

29 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.

Proof of fruit, &c. not being infected.

30 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 any infected fruit, shall rest upon the defendant.

Recovery of penalties.

31 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.

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

Limitation of actions.
General issue.

33 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.

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34 In any proceedings under this Act for any breach of or non-compliance with the provisions thereof, a copy of the *Hobart 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.

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—
Assessment or Valuation Roll evidence of occupier or owner.

35 "The Codlin Moth Act, 1884," is hereby repealed, but such repeal shall not affect anything done before this Act commences.

Repeal.
48 Vict. No. 5.

SCHEDULE.

"THE CODLIN MOTH ACT, 1887."

Sects. 18 & 19.

RETURN of the Number of Acres planted in Orchard occupied by the undersigned on the of 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.

Taken before me this _____ day of _____ 18 .

J.P

