

WESTERN AUSTRALIA

ANNO QUINQUAGESIMO OCTAVO

VICTORIÆ REGINÆ

No. 32

An Act for the Prevention and Cure of Diseases in Vines,
Fruit Trees, and other Vegetation.

[Assented to 28th November, 1894.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows :—

Short title

1. This Act may be cited for all purposes as 'The Insect Pests Act, 1894.'

2. In this Act—

Interpretation

'Bureau of Agriculture' shall mean the persons appointed as such by the Governor.

'Inspector' shall include assistant inspector.

Appointment of inspectors

3. The Governor may from time to time, upon the recommendation of the Bureau of Agriculture, appoint a chief inspector and such persons as he may deem fit to be inspectors or assistant inspectors under this Act of orchards, vineyards, nurseries, and gardens, and every such person and his assistants may, on producing his appointment in writing, if requested so to do, and without notice, enter at all reasonable hours in the daytime into and upon any lands or tenements on or in which any fruit trees, grape vines, or other vegetation may be planted or growing, whether enclosed or not, for the purpose of ascertaining whether any such fruit trees, vines, or other vegetation are or is infected with any insect pest, fungus disease, or any other disease or disorder detrimental to their health and growth, and no inspector or his assistants shall be deemed trespassers by reason of such entry, or be liable for any damage occasioned in the carrying out of this Act, unless the same was occasioned wilfully and without necessity.

Power of inspectors

The Insect Pests Act, 1894

4. (1) If any inspector is of opinion that any such insect pest, fungus disease, or other disease or disorder exists in any orchard, vineyard, nursery, or garden, he shall without delay report the same in writing to the Bureau of Agriculture, and in such report shall state what, in his opinion, the pest, disease, or disorder is, as well as his opinion as to the most desirable means to effect its cure; and upon receipt of such report the Bureau of Agriculture may call upon the occupier of such orchard, vineyard, nursery, or garden, to take such measures as the Bureau shall deem efficient for the eradication of such pest, disease, or disorder: provided, nevertheless, that such measures shall aim in the first place at the restoration to health of the fruit trees, vines, and other vegetation affected, and not at their destruction; but if it is reported to the Bureau by an inspector that any fruit tree, vine, or other vegetation is infected with insect pests, or diseased or disordered to such an extent as is likely to render all attempts to eradicate the same ineffectual, the Bureau may, by order addressed to the inspector so reporting, direct the destruction of such tree, vine, or other vegetation, and any inspector or his assistants may thereupon enter upon the lands whereon the same may be, and effect such destruction, subject, except in the case of the disease in grape vines known as 'Phylloxera,' to the provisions hereinafter contained.
- Bureau of Agriculture, on report of inspector, may direct remedy to be used, or
in certain cases order destruction
- (2) Every such order shall be served upon the occupier of the orchard, vineyard, nursery, or garden wherein any tree, vine, or other vegetation so ordered to be destroyed may be, and such occupier may, within seven clear days after the service of such notice, apply for, and obtain from any Resident Magistrate an order restraining such destruction, and a summons calling upon the Bureau of Agriculture to show cause before such Resident Magistrate why the order for such destruction should not be discharged, and such summons shall be heard and determined, and the costs of and incidental thereto adjudged in like manner in all respects as any other summons under the provisions of the Ordinance passed in the fourteenth year of Her present Majesty, and numbered five.
- Order to be served on occupier
Occupier may obtain order restraining destruction and summon Bureau
Magistrate may discharge order to destroy
- (3) Any such summons, and any order thereupon, may be served upon the inspector to whom the order of the Bureau is addressed.
- Service of process
- (4) The Bureau, or any person aggrieved, may appeal to the Supreme Court from any order of a Resident Magistrate under this section.
- Appeal
5. In every case where the Bureau of Agriculture, under the provisions of the preceding section, shall call upon the occupier of any orchard, vineyard, nursery, or garden in which any pests, disease, or disorder shall be found to exist, to take measures for the eradication of the same, the Bureau shall do so in writing, under the hand of their Secretary, setting forth the measures to be adopted, and instructing the said occupier to carry them into effect.
- Bureau of Agriculture to give instructions to the occupier
6. If the occupier of any orchard, vineyard, nursery, or garden shall neglect or omit to carry out such instructions as he shall have
- On neglect of occupier, inspector may

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carry out
instructions

received as aforesaid within such time as shall be specified therein, it shall be lawful for the Bureau of Agriculture, by writing under the hand of their Secretary, to authorise any inspector, together with any assistants, to enter upon the premises of such occupier at all reasonable times, and to perform all acts and things required to be performed by such instructions so neglected or omitted to be carried out as aforesaid.

Expenses
recovered
summarily

7. All the expenses incurred by the Bureau of Agriculture in carrying out the provisions of the preceding section, in regard to any orchard, vineyard, nursery, or garden, may be recovered in a summary way before any Justice or Justices of the Peace, on the complaint of an inspector, under the provisions of the Ordinance passed in the fourteenth year of the reign of Her present Majesty, and numbered five.

If no occupier,
Bureau may,
without notice,
take measures
to eradicate
pests, &c., or
may order de-
struction of
trees, &c.

8. In the event of any insect pest, fungus disease, or other disease or disorder being reported to the Bureau of Agriculture by an inspector to exist in any orchard, vineyard, nursery, or garden, or other place which is not in the occupation of any person, the Bureau may, without notice, take such measures to eradicate the pest, disease, or disorder, as they may deem necessary, and may order the destruction of any tree, vine, or other vegetation in any such orchard, vineyard, nursery, garden, or other place, and for carrying out any of the objects aforesaid, any inspector, with his assistants, may enter upon any lands and premises, and shall not be deemed trespassers thereon, or be liable to any action, or other proceedings, by reason of anything done under the provisions of this section.

Mutual agree-
ment between
landlord and
tenant

9. Nothing in this Act contained shall prevent a tenant from making any agreement with his landlord, whereby such tenant shall be entitled to recover from his landlord any expenses which he may have incurred in the carrying out of the instructions of the Bureau of Agriculture under the provisions of this Act.

Rules and
regulations

10. The Bureau of Agriculture may from time to time, with the approval of the Governor, make, publish, alter, and repeal Rules and Regulations for the efficient carrying out of the objects of this Act: Provided that such such Rules and Regulations be not inconsistent with the foregoing provisions of this Act.

W. C. F. ROBINSON,
GOVERNOR.