

No. XXIII.

An Act to prohibit the Importation of Grape-VINE DISEASES. vines and to deal with the disease known as *Phylloxera Vastatrix*. [23rd October, 1886.]

WHEREAS it is necessary that immediate action be taken to Preamble.
eradicate the disease in vines caused by the insect called
“*Phylloxera Vastatrix*” and to prevent the further introduction into
the Colony of the said disease Be it therefore enacted by the Queen’s
Most Excellent Majesty by and with the advice and consent of the
Legislative Council and Legislative Assembly of New South Wales in
Parliament assembled and by the authority of the same as follows :—

1. This Act may be cited as the “Vine Diseases Act 1886” Short title and
interpretation of
terms.
and in its construction “Disease” means the disease in grape-vines
caused by the “*Phylloxera Vastatrix*” “Diseased” means affected
with disease as aforesaid “Governor” means the Governor with the
advice of the Executive Council “District” means a Vine Disease
District proclaimed under this Act “Minister” means the responsible
Minister of the Crown charged with the administration of this Act
“Vine” means all parts of a grape-vine except grapes And “Vine-
yard” means any portion of land planted with vines “Owner” means
owner tenant or person in charge.

2. The Governor may by proclamation in the *Gazette* from time The importation of
grape-vines may be
prohibited or
restricted.
to time prohibit or restrict the importation into New South Wales of
any vines either generally or from any place or places to be named in
such proclamation and may in like manner alter revoke or suspend
for any specified time the operation of any such proclamation and
while any such proclamation shall be in force all vines imported or
brought into New South Wales contrary to any such proclamation
shall be forfeited and shall be destroyed or otherwise disposed of as
the Minister may direct and whosoever shall import or attempt to
import any vines contrary to any such proclamation shall on conviction
thereof pay a penalty not exceeding fifty pounds.

3. The Governor may by proclamation in the *Gazette* declare Proclamation of
districts and powers
of Inspector
any portion of the Colony defined in such proclamation to be a
district for the purposes of this Act and may appoint an Inspector of
Vineyards for such district or for any group of such districts who may
with

Vine Diseases.

with twenty-four hours notice to the owner enter at all reasonable hours of the day upon any vineyard without incurring any liability in respect of such entry. The Governor may in like manner rescind wholly or in part any such proclamation or may declare any district to be free from disease.

Destructions of vines and compensation therefor.

4. All vines in any vineyard now or hereafter reported and proved to the satisfaction of the Minister to be diseased or such vines therein as the Minister may deem necessary shall if the Minister so direct be rooted up and destroyed by any Inspector or person authorized by the Minister to act as Assistant Inspector in such manner and by such methods as may be prescribed by the regulations. Provided always that the owner of vines so rooted up and destroyed shall whether the same were actually diseased or not be entitled by way of compensation to an amount not exceeding the value of such vines if the same had not been rooted up to be ascertained as hereafter provided.

Compensation how determined.

5. The compensation to be paid to any owner of vines destroyed under this Act shall be such sum as may be determined by a Board of three persons to be appointed by the Governor but no Inspector shall be competent to be appointed to such Board.

Adjustments as between landlord and tenant.

6. Where land containing a vineyard on which any vines have been rooted up and destroyed under the provisions of this Act is under lease at the time of such rooting up and destruction the tenant of such land shall be entitled to give written notice to his landlord or to the agent of such landlord requiring him to make such abatement in the rent reserved on such land as may be a fair compensation for the loss or injury sustained by such tenant in consequence of such rooting up and destruction (to be determined if necessary by the Board in the manner prescribed by regulations). If such land was wholly or mainly cultivated as a vineyard the tenant may at his option declare the lease to be cancelled. The manner of giving effect to such abatement of rent and of modifying the covenants or agreements in the lease as also the manner of giving effect to the declaration of cancellation shall be prescribed by the regulations.

Removal &c. of grape-vines.

7. If any person removes or carries away or orders or causes to be removed or carried away from any diseased district any vine or plants or transplants within or brings into any part of New South Wales any vine which has been removed or carried away from any vine disease district or from any place outside New South Wales infected with disease every such person shall on conviction thereof pay a penalty not exceeding one hundred pounds or in default of payment of such penalty or unless such penalty shall be sooner paid may be imprisoned for any term not exceeding six months.

Disease to be notified.

8. The owner of any vineyard shall immediately on his ascertaining the existence therein of disease notify that fact to the Minister and if he neglects to do so any claim to compensation which he might otherwise have had under this Act shall be forfeited and if he shall be proved to have so neglected to notify such disease for the space of fourteen days after he had known of its existence or had reasonable grounds to suspect its existence he shall be liable to a penalty not exceeding one hundred pounds and in default of payment thereof or unless such penalty be sooner paid be imprisoned for any term not exceeding six months.

When vines not to be replanted.

9. If any person shall plant with vines any vineyard or portion of a vineyard in which vines have been rooted up and destroyed under the provisions of this Act before the district in which such vineyard or portion thereof is situated has been proclaimed free from vine disease as hereinbefore provided such person shall be liable to a penalty not exceeding fifty pounds and any vines so planted shall be rooted up and destroyed

Municipalities Act of 1867 Amendment.

destroyed as in the case of a vineyard reported to be diseased within the meaning of section four of this Act without compensation to the owner thereof and the cost of rooting up and destroying the same may be recovered in a summary way from such owner or from the person who planted such vines as a penalty under this Act is recoverable.

10. Whosoever shall wilfully obstruct any person lawfully acting in the execution of this Act shall forfeit and pay for every such offence any sum not exceeding ten pounds. Penalty on person wilfully obstructing.

11. All informations for offences against this Act may be heard and determined and all penalties under this Act may be imposed by any Stipendiary or Police Magistrate or two or more Justices in a summary way. Provided always that any person aggrieved by any adjudication of such Magistrate or Justices may appeal therefrom to the next Court of General Sessions held within the District where the adjudication was had or nearest thereto. And such appeal and the parties thereto shall be governed by the provisions regulating appeals contained in sections four hundred and forty—four hundred and forty one—four hundred and forty-two—and four hundred and forty-three of the “Criminal Law Amendment Act of 1883.” Summary jurisdiction.

12. The Governor may make regulations to provide for the proper destruction of vines for the manner of giving effect to the abatement of rent and of modifying the covenants or agreements in any lease as also for the manner of giving effect to any declaration of cancellation of such lease and all such regulations when published in the *Gazette* shall have the force of law. Regulations.

13. This Act shall remain in force for the period of three years from the first of January one thousand eight hundred and eighty-seven. Duration of Act.