



ANNO SEXAGESIMO SECUNDO ET SEXAGESIMO
TERTIO

VICTORIÆ REGINÆ.

A.D. 1899.

No. 724.

An Act relating to the Protection of Vineyards.

[*Assented to, December 21st, 1899.*]

BE it Enacted by the Governor, by and with the advice and consent of the Parliament of South Australia, as follows:

1. This Act may be cited as "The Phylloxera Act, 1899," and shall come into operation on the thirty-first day of December, one thousand eight hundred and ninety-nine. Short title.

2. In this Act and in all proceedings thereunder the terms in inverted commas shall have the meanings stated, except where some other meaning is clearly intended:— Interpretation.

"Act" includes regulations:

"Board" means the Board created by this Act:

"Disease" means the disease in grape vines known as *Phylloxera vastatrix*:

"Diseased" means affected, or liable by reason of having been in contact to be affected, with disease:

"Inspector" means any inspector of vineyards appointed under or by this Act:

"Minister" means the Minister of Agriculture:

"Quarantine" means to isolate in any manner hereinafter provided:

"Secretary" includes the Provisional Secretary:

The Phylloxera Act.—1899.

“Up-rooted” means the removal of the whole of the original cutting, layer, or stock:

“Vine” means a grape vine, alive or dead, or any vine cutting or part of a vine:

“Vineyard” means and includes any parcel of land whereon one or more vines may be planted, growing, or found.

Districts defined.

3. For the purposes of this Act the province is divided into the districts defined in Schedule I. hereto.

Division.

4. This Act is divided into the following parts:—

PART I.—The Board:

PART II.—The Vignerons' Roll:

PART III.—The Fund:

PART IV.—Inspectors:

PART V.—Powers and Duties of Board:

PART VI.—Compensation:

PART VII.—Offences and Penalties:

PART VIII.—Miscellaneous.

PART I.

PART I.

THE BOARD.

First Board.

5. Thomas Hardy, George Fullerton Cleland, Henry Maydwell Martin, William Patrick Auld, Herman Büring, Benno Seppelt, Maurice William Holtze, and Arthur James Perkins shall be a Provisional Board, and shall appoint a Provisional Secretary.

Shall hold office until election.

6. The Provisional Board shall hold office until the election of the Board as hereinafter directed.

Constitution of future Boards.

7. The Board shall consist of eight members, six of whom shall be elected as hereinafter provided, and two shall be appointed by the Minister. The first election shall take place on the thirty-first day of March, one thousand nine hundred, and nominations for such election shall be in the hands of the Secretary on or before the first day of March, one thousand nine hundred, and, save as aforesaid, shall be subject to the provisions of sections 8 and 9.

Representatives.

8. One member shall be elected for each district by the persons named in the roll for that district.

Election.

9. The elective members of the Board shall be elected when necessary, as follows:—

(a) Any three electors may nominate a candidate willing to act for and represent their district:

(b) Such

The Phylloxera Act.—1899.

PART I.

- (b) Such nomination shall be addressed to the Secretary, and shall be in his hands on or before the thirty-first day of January :
- (c) The names of candidates shall be forthwith forwarded to each elector of the district, who may, before the first day of March following, each vote for a representative from persons so nominated, and shall forward their voting paper to one of the scrutineers :
- (d) Maurice William Holtze and Arthur James Perkins shall be the provisional scrutineers, and after the election of the Board the two members appointed by the Minister shall be the scrutineers :
- (e) Each elector shall only vote in respect of one district, and shall have—
- One vote if the area of the vineyard in respect to which he is named in the roll is one acre and does not exceed ten acres ; two votes if such area exceeds ten acres and does not exceed twenty-five acres ; three votes if such area exceeds twenty-five acres and does not exceed fifty acres ; one additional vote for every fifty acres or portion of fifty acres after the first fifty acres of such area :
- (f) During the month of March, and so soon as practicable after each extraordinary election, the Minister shall, by notice in the *Government Gazette*, declare the names of the persons elected, and such notice shall be conclusive evidence of such election :
- (g) In case of equality of votes the Minister shall have a casting-vote :
- (h) Members as well of the Provisional Board as of the Board shall be eligible for re-election or re-appointment.

10. A Board meeting shall take place within fourteen days after the publication of the notice at a time and place to be appointed by the Minister. First meeting.

The members present shall elect a chairman from among their number, and shall appoint a Secretary, who shall not be a member of the Board. Chairman.

A quorum shall consist of not less than four members. Quorum.

The Board shall make such regulations concerning its internal management as shall be necessary. Regulations.

11. The elective members of the Board shall hold office for the term of two years, except the original members of the first elected Board, of whom two elective members shall, on or before the thirty-first days of January in the years one thousand nine hundred and two, Members of all future Boards shall retire from office every two years.

The Phylloxera Act—1899.

PART I.

two, one thousand nine hundred and three, and one thousand nine hundred and four, be chosen by lot to retire, and shall cease to hold office accordingly.

Extraordinary vacancies.

12. If any member shall be absent for three consecutive meetings, or become physically or mentally incapable of acting, or go to reside abroad, or resign, or desire to be discharged, the Minister shall declare his office vacant; and if such person shall have been originally appointed by the Minister, shall appoint some other person to act in his place; or if such person shall have been elected by the vigneron, an extraordinary election shall take place. Elective members shall hold office until notification of the election of their successors.

Members to be honorary.

13. No member shall be paid for his services as such, but any member may be paid his actual and necessary travelling expenses out of the fund.

PART II.

PART II.

THE VIGNERONS' ROLL.

Owners to furnish returns.

14. On or before the thirty-first day of January, one thousand nine hundred, the owner of every vineyard exceeding one acre in extent shall furnish to the Secretary a return in the form of Schedule II. hereto.

Vignerons' roll.

15. From the returns the Board shall compile a vigneron's roll, containing the particulars comprised in such returns, and shall exhibit such roll at every District Council office for a period of fourteen days, and notice thereof shall be published in the *Government Gazette* and in such other manner as the Board may determine.

Corrections.

16. Any person may within such time lodge with the Secretary a notice requiring the correction of the roll.

Revision.

17. The Board shall thereupon settle such requisitions in such manner as it may think fit. The revised roll shall thereupon become the vigneron's roll for the then current year.

Owners of new vineyards to furnish returns.

18. All persons thereafter planting vineyards exceeding one acre in extent shall in like manner furnish further returns from time to time, and the vigneron's roll shall be amended from year to year accordingly.

PART III.

PART III.

THE FUND.

Creation of rates.

19. An annual rate per acre may be declared by the Board of Three Pence on all vineyards exceeding one acre in extent which have been, are now, or may hereafter be planted with vines if when and

The Phylloxera Act.—1899.

and so soon as such vines shall have attained the age of two years; of Six Pence on all such vineyards which have been so planted for four but less than eight years; and of One Shilling on all such vineyards which shall have been so planted for eight years or longer. Every winemaker and every distiller shall pay a rate of Six Pence for every ton of grapes annually purchased by him.

PART III.

20. All rates shall be paid on the first day of May in each year, beginning on the first day of May, one thousand nine hundred and one, and shall be payable at the office of the Commissioner of Taxes. Rates, when and where payable.

21. No vineyard of less than one acre shall be liable to any rate. Exemption.

22. The Commissioner of Taxes shall pay such rates when collected to the Treasurer to the credit of an account to be called "The Phylloxera Fund." Phylloxera Fund.

23. The rates shall be collected and levied or recovered by the Commissioner of Taxes in the like manner as the land tax is, and shall be recoverable with and under the like penalties for delay or default in payment thereof. Rates, how recoverable.

24. The Treasurer is hereby authorised to pay out of such fund all such costs, charges, salaries, travelling and other expenses, and compensation which may arise in and about the administration of this Act. Such payments may be made on the warrant of the Board, signed by the chairman and any other member of the Board. Payment of expenses and compensation.

25. The fund and all future interest thereon shall from time to time be invested in Treasury bills, Government bonds, or bonds guaranteed by the Government. Investment of fund.

PART IV.
INSPECTORS.

PART IV.

26. Every member of the Board shall be an inspector *ex officio*. Members of Board.

27. The Board may appoint such other persons as they may think fit to be inspectors. Appointment of inspectors.

28. Notice of any such appointment shall be forthwith published in the *Government Gazette*. Notice of appointments.

29. Every inspector, between the hours of seven o'clock in the morning and five o'clock in the afternoon, may— Powers of inspectors.

- (a) Enter into or examine at any time, with or without assistants, any vessel, vehicle, building, land, or place suspected to contain any vine or grapes brought into the province, and search

The Phylloxera Act.—1899.

PART IV.

search therein for disease, and may remove such vines or grapes to a quarantine for further examination, and may destroy such as may be found to be diseased:

- (b) With or without assistants, enter any vineyard and examine any vine or grapes, and, by notice in the form of Schedule III., may temporarily quarantine any vineyard in which he finds any sign of disease pending report to the Board and action thereon. Such report shall be made forthwith.

PART V.

PART V.

POWERS AND DUTIES OF BOARD.

General powers.

30. Upon receipt of any report referred to in section 29, subsection (b), the Board shall—

- (a) Quarantine all such area or areas of such vineyard within a radius of two chains from any spot or spots where disease is or is suspected to be until the nature and extent of such disease has been ascertained:
- (b) Cause all quarantined areas to be clearly indicated by flags, fences, or other similar means:
- (c) Cause all vines in such quarantined area to be destroyed with bisulphide of carbon and afterwards uprooted and burnt:
- (d) Take such other precautionary measures as it may deem necessary to prevent the spread or continuation of the disease:
- (e) Upon being satisfied that no disease exists immediately release such vineyard from quarantine.

Neglected vineyards.

31. All vineyards which in the opinion of the Board have remained unused or abandoned for a period of two years after the passing of this Act may be destroyed.

Regulations.

32. The Board may make regulations for the due carrying out of the provisions and objects of this Act. Such regulations shall be submitted to the Minister, and, if approved by him, shall be published in the *Government Gazette*, and shall thereupon have the same force and effect as if embodied and forming part of this Act. All such regulations shall be laid before Parliament within fourteen days after such publication if Parliament be then sitting; if not, then within fourteen days after the opening of the next Session of Parliament

PART VI.

PART VI.

COMPENSATION.

Assessment of compensation.

33. Compensation shall be paid on the recommendation of the Board, but not otherwise, to the person or persons entitled thereto in respect of all vineyards and parts of vineyards destroyed under the

The Phylloxera Act.—1899.

the provisions of this Act, and in respect of all persons, gardens, orchards, or produce injuriously affected by the performance of any of the powers and duties of the Board. Such compensation shall be assessed by the Board on the basis of actual damage sustained by any person in consequence of the exercise of the powers and duties of the Board.

PART VI.

34. No compensation shall be paid in respect of—

Exceptions.

(a) Any vineyard which shall have been unused or abandoned for two years prior to destruction :

(b) Any loss sustained by reason of or in connection with the destruction of any diseased vine or grapes brought into the province, or any package containing or which may have contained or come into contact with any such vine or grapes.

35. If the fund for the time being should prove to be insufficient for the payment of all claims for compensation in full, the Treasurer may, out of moneys to be provided by Parliament, advance the amount required, and all such advances shall be paid as soon as may be out of future accruing rates. No compensation shall be claimed or payable except against or out of "The Phylloxera Fund."

Proportionate reduction of compensation.

PART VII.

PART VII.

OFFENCES AND PENALTIES.

36. If within any vineyard any sign shall appear which may reasonably be suspected to be caused by disease, the owner, occupier, or person in charge thereof shall immediately notify the fact in writing to an inspector, or to the Board or the Minister ; and in the event of his wilfully neglecting so to do all claim by such owner, occupier, or person to compensation under this Act shall be forfeited, and such owner, occupier, or person shall, on conviction, pay a penalty not exceeding Fifty Pounds.

Owners &c., to give notice of disease.

37. If any person shall impede, hinder, or attempt to impede or hinder the inspection by any inspector between the hours of seven o'clock in the morning and five o'clock in the afternoon of any vessel, vehicle, vineyard, store, or other building, premises, or place, or any vine, grapes, case, box, barrel, or other receptacle or package, or neglects to make a return in the prescribed form, or makes a false return, or violates any Proclamation made under section 44 or any regulation made under the provisions of this Act, shall, in addition to any other penalty provided in this Act, be liable to pay a penalty not exceeding Five Pounds for each offence ; or if the offence be continuous, for each day during which the offence is continued.

Interference with inspectors.

38. If

*The Phylloxera Act.—1899.***PART VII.**

Inspectors liable for failure of duties.

38. If any inspector wilfully violates, or omits to comply with, or neglects or refuses to enforce any provisions of this Act, or any regulations thereunder which he is required to comply with or enforce, he shall be liable to a penalty not exceeding Fifty Pounds.

Penalty for selling diseased grapes, &c.

39. Every person who sells, or offers, or exposes for sale, any grapes or vines, or parts of vines, affected with the disease, shall be liable to a penalty not exceeding Fifty Pounds, unless such person shall show that it was not practicable to discover the fact by the exercise of reasonable diligence.

Prohibition against replanting vineyards destroyed.

40. Except with the sanction of the Board no vines shall be planted or permitted to grow in any land from which any diseased vines have been removed for a period of ten years after such removal, and any person who shall commit any breach of this section shall on conviction thereof pay a penalty not exceeding Fifty Pounds; and all vines growing in or on any such land within such period shall be destroyed without compensation.

Recovery of penalties.

41. All proceedings may be had and taken, and all penalties, fines, and sums of money incurred or imposed or payable under this Act, may be sued for and recovered at the suit of the Minister, or such officer or authorised person as the Board shall from time to time on that behalf appoint, and all moneys so recovered shall be paid to the Treasurer to the credit of the fund.

Summary procedure.

42. The provisions of all laws relating to summary proceedings before Justices shall apply to all prosecutions under this Act or the regulations thereunder, and all informations under this Act or the regulations thereunder in respect of such offences may be summarily heard and determined before a Special Magistrate or two Justices of the Peace.

Appeal.

43. There shall be an appeal from any conviction, order, order dismissing any information under this Act, or under any regulation thereunder, and such appeal shall be to the Local Court of Adelaide in its Full Jurisdiction.

PART VIII.**PART VIII.****MISCELLANEOUS.**

Powers of Governor.

44. The Governor may, from time to time, by Proclamation in the *Gazette*, do any of the following acts:—

Prohibit the introduction into the province from any place outside the province of any vine, or any grapes, or package containing or which has contained or been in contact with grapes or vines the introduction of which has been or may be prohibited:

Prohibit

The Phylloxera Act.—1899.

PART VIII.

Prohibit the removal from any place within the province to any other place in the province of any vine, or of any grapes, package, implement, matter, or thing likely to convey the disease:

Declare any parcel of land or any building a quarantine for the reception of any vines or grapes diseased or suspected of being diseased:

Quarantine any vineyard or any building, land, or place wherein or whereon any diseased vine or grapes may be found or may have recently been.

45. When and so long as the funds in the hands of the Board shall amount to the sum of Five Thousand Pounds the Board shall have power to reduce the amount or suspend the levy of the rate hereinbefore provided, from year to year, or for such term as it may deem expedient, and shall thereupon notify the Minister of its decision in respect of such reduction or suspension by notice in writing, in which case the Minister shall give public notice of such reduction or suspension by Proclamation in the *Government Gazette* and by advertisement in one or more newspapers circulating within the colony.

Suspension of operations.

46. In the case of all vineyards or gardens containing vines which are less in extent than one acre, the owners or occupiers thereof shall be exempt from registration and taxation under this Act, but shall nevertheless be subject to all the other provisions of this Act and the penalties for non-compliance therewith. And any such vineyard or garden containing vines may be declared a quarantine, and the vines therein destroyed.

Vineyards of less area than one acre.

47. In this Act a fraction of an acre in excess of one acre shall be deemed to be an acre.

Construction.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

TENNYSON, Governor.

The Phylloxera Act.—1899.

THE SCHEDULES REFERRED TO.

SCHEDULE I.

Phylloxera Districts.

1. *Reynella District.*—Comprising the whole of the District Council districts of Clarendon, Stirling, Echunga, Morphett Vale, Noarlunga, Aldinga, Willunga, Kondoparinga, Macclesfield, Onaunga, Strathalbyn, Brinkley, Bremer, Port Elliot, Encounter Bay, Yankalilla, and Rapid Bay, and the Corporate Towns of Strathalbyn and Goolwa.

2. *Tanunda District.*—Comprising the whole of the District Council districts of Tanunda, Nuriootpa, Belvidere, Mount Crawford, Barossa, Port Gawler, Mudla Wirra South, Mudla Wirra North, Grace, Dublin, Alma Plains, Dalkey, and those portions of Balaklava and Port Wakefield south of the River Wakefield, together with the whole of the Corporate Town of Port Wakefield.

3. *Angaston District.*—Comprising the District Council districts of Angaston, North Rhine, South Rhine, Truro, Angas, Morgan, Blanchetown, Cournamont, Tungkillo, and Mannum; that portion of the counties of Young and Albert not included in District Council districts, together with the whole of the counties of Alfred and Hamley.

4. *Central District.*—Comprising the whole of District Council districts of Marion, West Torrens, East Torrens, Woodville, Yatala North, Yatala South, Crafers, Onkaparinga, Mitcham, Burnside, Payneham, Walkerville, Campbelltown, Prospect, Highercombe, Teatree Gully, Talunga, Munno Para West, Munno Para East, Para Wirra, Mount Barker, Nairne, Monarto, and Mobilong, and the Corporate Towns of Adelaide, Unley, Kensington and Norwood, St. Peters, Hindmarsh, Thebarton, Port Adelaide, Semaphore, Glenelg, Brighton, and Gawler.

5. *District No. 5.*—Comprising that portion of the province south and east of districts numbered 1, 3, and 4.

6. *District No. 6.*—Comprising that portion of the Province not included in any other district.

SCHEDULE II.

“The Phylloxera Act, 1899.”

Vinegrowers' Return.

Return of the number of acres planted with vines in the vineyard owned by the undersigned :—

Name and Address.	Section No., District, and Hundred.	Area Planted with Vines.	Age of Vines.

I, _____, of _____, do declare that I am the owner and occupier (or owner, as the case may be) of the vineyard above named, and that the above return contains a just and true account of the several matters therein set forth respecting the same

Dated this _____

day of _____

, 18 _____

[Signature.]

SCHEDULE

The Phylloxera Act.—1899.

SCHEDULE III.

“The Phylloxera Act, 1899.”

Notice of Temporary Quarantine.

Notice is hereby given that I have from this day forth quarantined the vineyard owned or occupied by you, situated [*insert situation of vineyard*]. Such vineyard will continue quarantined until released therefrom by order of the chairman of the Phylloxera Board.

Dated this

day of
Signed—

, 18 .
, Inspector.