

TRINIDAD AND TOBAGO.

Agricultural Protection.

No. 20.—1902.

7th July.

AN ORDINANCE to prevent the dissemination and to provide for the eradication of diseases affecting vegetation.

[L.S.]

C. C. KNOLLYS,

ACTING GOVERNOR.

26th July, 1902.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

Short Title. **1.** This Ordinance may be cited as the Agricultural Protection Ordinance, 1902.

Interpretation. **2.** In this Ordinance, unless the context otherwise requires:

“Regulations” mean regulations passed under this Ordinance;

“Disease” means any disease affecting trees, plants, or vegetables caused by or consisting in the presence of any insect or fungus and also any other disease affecting trees, plants or vegetables which the Governor may by Proclamation from time to time declare to be a disease within this Ordinance;

“Diseased” means affected with Disease;

“Tree,” “Plant,” and “Vegetable” respectively include the fruit or other product of any tree, plant or vegetable, and every part (including emptied pods or husks) of any tree, plant, vegetable, fruit or product ;

“Destructive Vegetable growth” shall include any fungus or epiphytal or other Vegetable growth which the Governor may from time to time by Proclamation declare to be a Destructive Vegetable growth ;

“Insect” means any insect which the Governor may from time to time by Proclamation declare to be an insect within the meaning of this Ordinance, in whatever stage of existence such insect may be ;

“Occupier” means the person in actual occupation of any land or building or if there is no such person then the expression means the person entitled to possession thereof ;

“Owner” means the person who is for the time being entitled to receive the rent of any land or who if the same were let to a tenant at a rack rent would be entitled to receive such rent. Neither His Majesty the King nor the Governor as Intendant of Crown Lands is included in the expression “owner” ;

“Inspection Grounds” means such lots of land as may from time to time be set apart by the Governor for the purpose of inspecting anything the removal of which is permitted subject to restrictions or conditions imposed under the power given by this Ordinance ;

“Proclamation” means a notification by the Governor published in the *Royal Gazette* ;

“Prescribed” means prescribed by Regulation or Proclamation under the provisions hereof.

3. The Governor may from time to time rent or lease lands for the purposes of this Ordinance and may set apart such lands and also any Crown Lands, for use as inspection grounds or for any other purpose which he may deem necessary to further the objects of this Ordinance.

4. The Governor may, from time to time, by Proclamation declare that the removal of any or every tree, plant or vegetable, or of any manure, straw or packing material from or out of any inspection grounds, or from or out of

any place the boundaries whereof shall be defined in such Proclamation, shall either be absolutely prohibited or shall be permitted only subject to such restrictions and upon the conditions prescribed.

Publication of Proclamation. 5. Every Proclamation under this Ordinance shall be published in the *Royal Gazette* and upon such publication shall have the force of law.

Offences. (See also Section 25.) 6. Every person shall be deemed to have committed an offence against this Ordinance who shall remove or cause to be removed from or out of any inspection grounds or from any place proclaimed as in the third section hereof provided, any insect, fungus, tree, plant, vegetable, manure, straw or packing material, contrary to this Ordinance or to any Proclamation issued thereunder or to any regulations.

If any of the things aforesaid be so removed, every such thing and any package containing, harbouring or infected by the same shall be forfeited and may be seized by or on the order of any Inspector, and shall be dealt with, whether by destruction thereof or otherwise as the Chief Inspector may direct or in the prescribed manner.

Appointment of Inspectors. 7. The Governor may from time to time appoint some skilled person to act as Chief Inspector under this Ordinance, and also such other persons as may be necessary to act as Inspectors under him.

Power of seizure. 8. The powers of seizure under this Ordinance shall be exercised by the Chief Inspector and by any Inspector.

Every Inspector shall have power to examine any of the things in Section 4 mentioned which in his opinion are liable to seizure, and for the purpose of such examination may unfasten and examine any package in which any such thing is contained.

Powers of search by Inspector. 9. The Inspectors may at all reasonable times enter without notice (with or without assistants as may to the person making entry, seem fit) upon any land or into any building or part of any building which is in ruin and which is disused, for the purpose of searching for and examining any insect or fungus, or any diseased tree, plant or vegetable,

or any destructive vegetable growth and may remain thereon or therein so long as may be reasonably necessary for any such purpose.

A report in writing of every such examination shall be made and shall be forwarded to the Chief Inspector.

10. It shall be lawful for the Governor to authorize the Chief Inspector to take action as hereinafter mentioned for the purpose of bringing about the destruction of any insect or fungus or destructive vegetable growth or the eradication of any disease referred to in such report.

Procedure subsequent to Chief Inspector's report.

11. The Chief Inspector may on such authorization issue an order to the occupier, or if there be no occupier to the owner of the place, directing him to take within a definite time after service of such order to be therein specified all such measures for the destruction of such insect or growth or as the case may be for the eradication of such disease (other than by the destruction of the building or part of building affected) as shall, in his opinion, be necessary, and shall be set forth in such order or as may be prescribed.

Duty of owner and occupier to eradicate disease.

In every case in which measures for destruction or eradication as aforesaid are prescribed the fact that they are so prescribed shall be stated in the order served as aforesaid.

12. If any occupier who has been directed to take any measures as aforesaid is not a lessee under a lease for more than one year or if being a lessee under such lease there remains a period of only one year or less before the expiration of the lease, it shall be lawful for such occupier to request the Chief Inspector to enlarge the time within which such measures have to be taken as aforesaid and to issue an order to the owner or his attorney in terms similar to the order already issued against the occupier. Upon receipt of such request it shall be lawful for the Chief Inspector to enlarge the time and to issue an order as aforesaid to the owner and the latter shall, after being served with the order, have a right of entry for himself and his assistants and servants into and upon the land occupied for the purpose of taking the measures which the said Inspector shall have directed him to take; Provided always that

Relief for short tenants.

nothing herein contained shall diminish the liability of the occupier at the expiration of the extended time if in the interval the measures have not been taken by the owner.

Right of contribution towards expense incurred under the Ordinance.

13. If any owner or occupier claim that the expense or loss or damage imposed or inflicted upon him by this Ordinance or by any steps taken thereunder, should be shared or should be wholly borne by the other of them it shall be lawful for either of them to commence an action in the Petty Civil Court of the district, irrespective of amount, and in such action to claim that the whole amount or part thereof shall be paid by the defendant. In any such action the Court shall take into consideration whether the necessity for the measures directed to be taken arose before or since the occupation or can be attributed to any action or neglect of the owner or the occupier or their respective representatives and shall likewise consider to what extent the parties to the action benefit by the measures having been taken and the Court shall give judgment either against the plaintiff or against the defendant for such sum not exceeding the amount actually and properly spent by the plaintiff as it may adjudge that the latter should receive from the defendant.

Exemption from Stamp fees.

14. All documents necessitated by any steps taken under this Ordinance and all actions suits and proceedings taken thereunder shall be exempted from stamp duty and stamp fees except when the latter represent the costs of advertisements or other disbursements made by the Government or by order of the Court.

Powers of Inspectors after default by owner or occupier.

15. If any owner or occupier shall fail to comply with the direction contained in any order served upon him he may on complaint by the Chief Inspector or any Inspector be summoned to appear before the Stipendiary Justice of the district to show cause why such order should not be enforced, and if on the hearing the defendant fail to show cause to the satisfaction of the Justice for such default, the Justice may authorize the complainant with or without assistants, to enter upon such land and to take such measures as may be necessary for the enforcement of the order of the Chief Inspector.

16. When in the opinion of the Chief Inspector any such insect or growth cannot be destroyed or such disease cannot be eradicated otherwise than by the destruction of any tree, plant or vegetable or when it is in his opinion necessary for the prevention of the increase of such insect or growth or the spread of such disease, to cause the destruction of any plant, tree or vegetable which is not affected by such insect growth fungus or disease, the said Inspector shall serve or cause to be served on the owner and on the occupier, if any, an order calling on each of them to state (within such time and in such manner as may be prescribed by the regulations) whether they will jointly and severally undertake to destroy the trees, plants and vegetables (which shall be described in such order) in the manner and within the time specified in the order.

Procedure when diseased plants have to be totally destroyed.

Any owner or occupier who gives any undertaking as aforesaid, and who fails to carry such undertaking into effect shall be guilty of an offence against this Ordinance and any occupier who has given an undertaking as aforesaid shall also be deemed thereby to have granted to the owner an irrevocable license to enter on the land with such assistants as are necessary and to there cut down in the manner directed the trees, plants and vegetables referred to in the order.

17. If no such undertaking as aforesaid is given or if after having been given it is not carried out, the Chief Inspector shall report the fact to the Governor and shall state in such report (a) the approximate value of the property which it is necessary to destroy and (b) the value of the property to be destroyed (if any) the destruction of which is rendered necessary to prevent increase of such insect or growth or the spread of such disease beyond the boundaries of the lands belonging to the owner of the property directed to be destroyed. Upon receipt of such further report it shall be lawful for the Governor in his discretion to authorize the Chief Inspector or any Inspector to proceed as hereinafter mentioned.

Report by Chief Inspector.

18. The Chief Inspector or Inspector authorized as in the last section mentioned, may apply to the Stipendiary Justice for the district for a summons returnable not less

Procedure when total destruction is advised.

than eight days from the date of issue, calling upon the person to whom it is directed, to show cause why they should not destroy such trees, plants or vegetables within the time and in the manner specified in the summons.

If one of the parties so served is willing unconditionally that such trees, plants or vegetables should be destroyed a note shall on the hearing be taken of his consent and thereafter the proceedings shall be continued only against the party who does not consent.

Procedure
when total
destruction is
advised.

19. On the return of the summons the Justice may either (1) authorize the person who applied for the summons to enter upon such land at any reasonable time and to there destroy the trees, plants vegetables in the manner specified in the summons or in such other manner as to such Justice may seem fit ; or (2) if the owner and occupier or either of them in the case where the other has given his consent, prove that the increase of the insect or growth or the spread of the disease can be averted by other means than the destruction of the trees or plants and that they (or the one as the case may be) will adopt such means, the Justice shall order such means to be adopted by the person affected by the summons and shall further order that he shall enter into sufficient bond with or without sureties for the due carrying into effect of the means by which the increase or spread is to be averted.

Any person who has filed his acknowledgment of consent as aforesaid and who interferes with or prevents or attempts to interfere with or prevent the adoption of the means aforesaid shall be deemed to commit an offence against this Ordinance.

Compensation.

20. It shall be lawful for the Governor out of monies voted for that purpose by the Legislature to make grants by way of compensation or partial compensation to occupiers and to owners (according to their respective interests) in respect of healthy trees, plants or vegetables destroyed in order to prevent the increase of any insect or growth or the spread of any disease in or into lands not belonging to the owner of the land on which such healthy trees, plants or vegetables are.

21. If there is no occupier of any land and if the owner is absent from the colony and has no recognised agent therein, service of any notice order complaint or summons under this Ordinance may be made by affixing the same in some conspicuous part of the land and by the publication of a copy thereof in the *Gazette* and in one or more newspapers circulating in the Colony, and in such case it shall not be necessary to specify in any notice order complaint or summons the name of any person as the owner of any land the owner of which is unknown, and a Stipendiary Justice, may, if satisfied that there is no occupier of such land and that the owner is absent, unrepresented and unknown, proceed to hear and adjudicate *ex parte*.

Procedure when owner is absent.

22. The expense incurred by the Chief Inspector or Inspectors in carrying into effect any order made under this Ordinance shall be paid by the party in default.

Expenses to fall on party in default.

Such expenses shall be recoverable as a debt which until paid (if payable by the owner) shall be a first charge on the land affected by the order and payment thereof may be enforced forthwith (and not in instalments) in the manner provided by the Land Charges and Land Taxes Ordinance.

23. No Inspector or other person authorized under the provision hereof shall be deemed a trespasser by reason of any entry or destruction or action taken or things done under this Ordinance or be liable for any damages occasioned by carrying out any of the provisions of this Ordinance unless the same were occasioned maliciously and without reasonable and probable cause.

Protection for persons acting under the Ordinance.

Proceedings taken under this Ordinance shall not be rendered void by reason of any informality in any order or notice made or given.

24. No action shall be brought against any person acting or purporting to act in the execution of this Ordinance unless the same be commenced within six months of the date when the act complained of has been committed.

Limitation of right of action.

25. Every person shall be guilty of an offence against this Ordinance who :—

Offences. (See also Section 4.)

- (1.) In any manner obstructs or impedes any person in the execution of any of the powers conferred by this Ordinance ; or

- (2.) Disobeys or neglects to comply with any of the provisions of this Ordinance or the terms of any Proclamation issued thereunder or any Regulations or any Bye-law, or any order given in pursuance thereof respectively.
- (3.) Introduces any noxious vegetable growth disease or insect into any cultivation unless he proves to the satisfaction of the Stipendiary Justice that such introduction was accidental and not due to neglect or malice.

Punishment.

26. If any person is guilty of an offence against this Ordinance he shall for every such offence be liable on summary conviction to a fine not exceeding Twenty Pounds. This liability shall be in addition to the liability for civil claims which may be made against such person.

Appliances for eradication of disease.

27. It shall be lawful for the Governor out of monies voted by the Legislative Council for that purpose to procure, on the recommendation of the Chief Inspector, such appliances, chemicals and things as will facilitate the destruction of any insect growth or fungus or the eradication of any disease.

Regulations.

28. The Governor in Council may make regulations for all or any of the following purposes, namely :—

- (1.) For regulating or prohibiting the removal from any inspection ground or place of any trees, plants, or vegetables, manure, straw or packing material.
- (2.) For securing the detention and examination of trees, plants or vegetables, and of manure, straw or packing material, which are suspected to be diseased or infected, and of boxes, baskets packages and cases which are suspected to contain or to have contained diseased plants, trees, or vegetables, or to harbour or to be infected by insects or fungi.
- (3.) For securing the effectual treatment of diseased trees, plants or vegetables, and the effectual

destruction of insects, destructive vegetable growths or fungi, and for the supply of chemicals, appliances and other means whereby such treatment or destruction may be facilitated.

- (4.) For defining the duties of Inspectors and of the Chief Inspector under this Ordinance.
- (5.) For regulating the work to be done in Inspection Grounds.
- (6.) For regulating the manner in which requests are to be made by occupiers to the Chief Inspector, and generally for carrying into effect the provisions of this Ordinance.

29. This Ordinance shall come into operation on a date to be fixed by the Governor by Proclamation. Commence-
ment and sus-
pension.

It shall be lawful for the Governor from time to time on a resolution in that behalf being passed by the Legislative Council by order to suspend the operation of this Ordinance either generally or as to such districts in the Colony as he may prescribe and thereafter on like resolution to extend or limit such suspension or to abrogate the same.

Any such order as aforesaid shall be published in the *Royal Gazette*.

Passed in Council this seventh day of July, in the year of Our Lord one thousand nine hundred and two.

HARRY L. KNAGGS,
For the Clerk of the Council.