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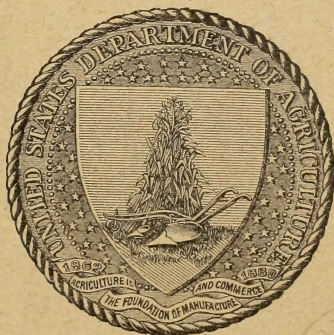
LEGAL ENACTMENTS

FOR THE

RESTRICTION OF PLANT DISEASES.

A COMPILATION OF THE LAWS OF THE UNITED STATES AND CANADA.

By ERWIN F. SMITH,  
DIVISION OF VEGETABLE PHYSIOLOGY AND PATHOLOGY.



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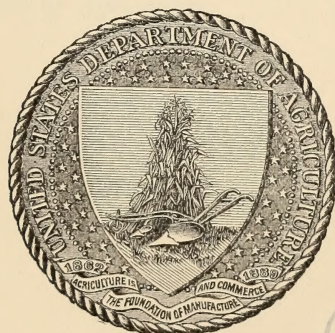
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## LETTER OF TRANSMITTAL

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U. S. DEPARTMENT OF AGRICULTURE,  
DIVISION OF VEGETABLE PHYSIOLOGY AND PATHOLOGY,  
*Washington, D. C., June 19, 1896.*

SIR: I have the honor to submit herewith a bulletin, by Dr. Erwin F. Smith, in which is compiled the laws of this country and Canada for restricting plant diseases. It is believed that this bulletin will serve a useful purpose in furnishing information to organizations and individuals interested in the efforts made to restrict the spread of fungous diseases by legal enactments.

Respectfully,

B. T. GALLOWAY,  
*Chief of Division.*

Hon. J. STERLING MORTON,  
*Secretary of Agriculture.*





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# LEGAL ENACTMENTS FOR THE RESTRICTION OF PLANT DISEASES.

[A compilation of the laws of the United States and Canada, by Erwin F. Smith.]

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## INTRODUCTION.

Legislation in this country for the restriction of the communicable diseases of plants is scarcely more than 20 years old. It began in Michigan with the peach yellows law of 1875. Most of the States still have no laws whatever bearing on this subject, and in the others the laws, with few exceptions, are directed only against special diseases, e. g., yellows or black knot.

Owing to frequent requests for information on this subject, an effort has been made to include all these laws in one compilation. These enactments, devised to meet special exigencies, form a rather heterogeneous collection, some of them being well and others ill adapted to accomplish the ends desired. To show the evolution of the subject, a few laws are included which are not now in force, these having in some cases been superseded by better laws, and in other cases by worse ones. For the sake of comparison the phytopathological laws of the Canadian Provinces have also been included.

The twelve States which now have laws of some sort for the prevention of the spread of plant diseases are as follows: California, a general law; Connecticut, peach yellows; Delaware, peach yellows; Kentucky, black knot of plum and cherry; Maryland, peach yellows; Michigan, peach yellows and black knot of plum and cherry; New Jersey, for a cranberry disease, and of general application under special conditions; New York, peach yellows and black knot; Oregon, a general law; Pennsylvania, peach yellows; Virginia, peach yellows; Washington, a general law.

Undoubtedly there will be a large extension of this class of legislation in the near future, as our knowledge of the method of spread of parasitic diseases becomes more exact, and as the progressive agriculturists, horticulturists, and market gardeners become more alive to their own interests. For this reason it is highly desirable that a knowledge of what has already been done should be within easy reach of all.

## LAWS OF CALIFORNIA.

AN ACT to define and enlarge the duties and powers of the board of State viticultural commissioners, and to authorize the appointment of certain officers, and to protect the interests of horticulture and viticulture.<sup>1</sup>

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. The board of State viticultural commissioners, in addition to the duties and powers provided for by the act entitled "An act for the promotion of viticultural industries of the State," approved April 15, 1880, shall, in respect to diseases of grapevines and vine pests, constitute a board of health. It shall, in addition to laboratory work, cause practical experiments to be made to determine or demonstrate the ability of known and new remedies against such diseases and pests.

SEC. 2. The board shall elect of their own number or appoint from without their own number a competent person to serve as chief executive viticultural officer, who shall perform also the duties of viticultural health officer under direction of said board, and subject to removal from such office at any time by the board.

SEC. 3. The viticultural health officer shall have power, subject to approval of the board, to prevent the spread of vine diseases and vine pests by declaring and enforcing rules and regulations in the nature of quarantine, to govern the owner of, restrain, or prohibit the importation into the State, and the distribution and disposal within the State, of all vines, vine cuttings, débris of vineyards, empty fruit boxes, or other material on or by which the contagion of vine diseases and germs of vine pests may be introduced into the State, or transported from place to place within the State; to declare and enforce regulations approved by the board for the disinfection of vines, vine cuttings, vineyard débris, empty fruit boxes, and other suspected material dangerous to vineyards, while in transit, or about to be distributed or transported into or within the State; to classify the vineyards and viticultural regions of the State according to the degree of health or vine disease prevailing therein, and to change the same as circumstances may require to be done, subjecting each class to such varying rules and regulations respecting the introduction or transportation of vines, vine cuttings, and other material liable to spread contagion of disease among vines as may in the opinion of the board become necessary and expedient for the preservation of vineyards. Such rules and regulations shall be circulated in printed form by the board among the vine growers and fruit dealers of the State, shall be published at least thirty days in two daily newspapers of general circulation in the State not of the same city or county, and shall be posted in a conspicuous place at the county seat of each county affected by their provisions.

SEC. 4. The viticultural health officer may appoint local resident inspectors in any and all of the viticultural regions of the State, whose duties shall be to report to him concerning the health of grapevines, the progress of vine diseases and pests, and all violations of the rules and regulations of the board; to certify to the proper disinfection of vines, vine cuttings, empty fruit boxes, and other transportable articles required by the board to be disinfected before transportation, or while in transit, or after delivery at any point of destination, the methods of disinfection to be determined and approved by the health officer and the board; to seize upon and destroy all vines, vine cuttings, débris of vineyards, empty fruit boxes, and other material likely to spread contagion, which may be found in transit, or delivered after transportation, not certified to as required by the board: *Provided*, That the same may be exempt from such destruction if the cost of disinfection by such inspector shall be provided for by the owner or agent in charge thereof, as may be prescribed for such cases of negligence, carelessness, or violation of quarantine rules, and to keep a record

<sup>1</sup> Statutes of California, session of 1881, Sacramento, pp. 51-53.

of all proceedings as such inspectors: *Provided*, That there shall be no compensation for such services or inspection, excepting a fee not to exceed one dollar for each certificate of disinfection, in case of compliance with quarantine regulations, and not to exceed five dollars for each certificate of disinfection after seizure for noncompliance: *Provided, however*, Such inspection may be employed at the option of the owners of property requiring disinfection to disinfect the same. All vines or other articles absolutely prohibited of importation or transportation may be promptly destroyed by any inspector discovering the same transported or in transit, in violation of regulations, and the cost of such seizure, together with a fee of ten dollars, shall be paid to such inspector out of any fine that may be collected from the party or parties guilty of such violation. Willful violation of the quarantine regulations of the board shall be considered a misdemeanor, and punishable by fine of not less than twenty-five nor more than one hundred dollars. Whenever required, for the convenience of vine or fruit growers, or fruit dealers, a resident inspector shall be appointed, upon petition of any three neighboring vine or fruit growers, or dealers in grapes, to reside in their vicinity, if not already provided for, and there shall be not less than two inspectors appointed for each county which is subjected to such quarantine regulations, and they shall each be subject to removal at the will of the viticultural health officer, if incompetent, or they shall fail to perform their duties, or are unreasonably distasteful to vine growers and grape dealers.

SEC. 5. It shall be also the duty of the chief executive viticultural officer to personally visit, examine, and report upon the several viticultural regions of the State; to prepare documents for publication, as required by the board, relating to any and all branches of viticultural industry, including treatises for the instruction of the public; to supervise the preparation of reports for publication, and especially report upon the practicability and means of eradicating diseases from vineyards, and to superintend experiments with known and new remedies.

SEC. 6. All printing heretofore ordered by the board shall be paid from out of the appropriations heretofore made for its use. All printing required hereafter shall be done by the State printer.

SEC. 7. The salary of the chief executive viticultural officer shall be fixed by the board, not to exceed one hundred and fifty dollars per month for services while engaged as such officer, and his actual traveling expenses shall be allowed, not to exceed five hundred dollars per annum.

SEC. 8. The board of State viticultural commissioners shall also appoint an officer, who shall be especially qualified by practical experience in horticulture for the duties of his office, to perform similar duties respecting the protection of fruit and fruit trees as are provided for in this act in reference to grapevines, with like powers; and the salary and traveling expenses of such officer shall be fixed by the said board at the same amounts provided for in the case of the chief executive viticultural officer; and the said board shall have power to establish such quarantine rules and regulations as are required for the protection of fruit and fruit trees from the spread of insect pests.

SEC. 9. There is hereby appointed for the uses of the board of said viticultural commissioners, as set forth in this act, and in the act providing for this organization, out of any moneys in the State treasury not otherwise appropriated, the sum of ten thousand dollars for the year commencing July 1, 1881; ten thousand dollars for the year commencing July 1, 1882; and the State comptroller will draw his warrants upon the State treasury in favor of the treasurer of the said board for the said sums, or any part thereof, when they become available, upon proper demand being made for the same by said board: *Provided*, That no claim shall be paid out of said appropriation until the same shall have been presented to and approved by the State board of commissioners.

SEC. 10. This act shall take effect and be in force from and after its passage.

Approved, March 4, 1881.

In the California act creating a State board of horticulture,<sup>1</sup> approved March 13, 1883, the following sections relate in part to diseases of plants:

SEC. 4. The board may receive, manage, use, and hold donations and bequests for promoting the objects of its formation. It shall meet semiannually, and as much oftener, and at such places, as it may deem expedient, to consult and adopt such measures as may best promote the horticultural industries of the State. It may, but without expense to the State, select and appoint competent and qualified persons to lecture in each of the horticultural districts named in section 1 of this act, for the purpose of illustrating practical horticultural topics and imparting instructions in the methods of culture, pruning, fertilizing, and also in the best methods of treating the diseases of fruit and fruit trees, cleansing orchards, and exterminating insect pests. The office of the board shall be kept open to the public, subject to the rules of the board, every day, excepting legal holidays, and shall be in charge of the secretary during the absence of the board.

SEC. 5. For the purpose of preventing the spread of contagious diseases among fruit and fruit trees, and for the prevention, treatment, cure, and extirpation of fruit pests and diseases of fruit and fruit trees, and for the disinfection of grafts, scions, orchard débris, empty fruit boxes and packages, and other suspected material or transportable articles, dangerous to orchards, fruit, and fruit trees, said board shall make regulations for the inspection and disinfection thereof which said regulations shall be circulated in printed form by the board among the fruit growers and fruit dealers of the State, shall be published at least twenty days in two daily newspapers of general circulation in the State, not of the same city or county, and shall be posted in three conspicuous places in each county in the State, one of which shall be at the county court-house thereof. Such regulations, when so posted, shall be held to impart notice of their contents to all persons within this State, and shall be binding upon all persons.

SEC. 6. The said board shall elect of their own number, or appoint from without their number, a competent person especially qualified by practical experience in horticulture for the duties of his office, who shall be known as inspector of fruit pests (to hold office at the pleasure of the board), whose duties it shall be to visit the horticultural districts of the State, to see that all regulations of said board and provisions of law to prevent the spread of fruit pests and diseases of trees and plants injurious to the horticultural interests of the State, and all regulations of said board in the nature of quarantining infected or infested districts, and also all rules and regulations of said board concerning disinfection of fruits, trees, plants, grafts, scions, orchard débris, empty fruit boxes and packages, and other material dangerous to orchards, fruit, and fruit trees are enforced. He shall also, whenever required, and under the direction of the board, and may also upon his own motion, and upon the complaint of interested parties, inspect orchards, nurseries, and other places suspected or believed to be infested with fruit pests, or infected with contagious disease injurious to trees, plants, or fruits, and he shall report the facts to said board. If, upon report of said inspector, or from well-attested facts otherwise before it, said board shall be of the opinion that any locality, orchard, district, or place is infested with fruit pests, or infected with contagious disease injurious to trees, plants, or fruits, and liable to spread to other localities, to the injury of other persons or places, said board shall, by an order entered upon its minutes, so declare such and said infested or infected district or place shall be under the quarantine regulations of said board. As soon, however, as in the opinion of said inspector the danger from such locality has ceased, he may suspend such quarantine regulations, and shall immediately report the fact to the board, who may approve or disapprove his action. He shall, from time to time, and whenever required by said board, report

<sup>1</sup> Statutes of California, 1883, Sacramento, pp. 290-292.

to it such information as he may acquire from observation, experience, and otherwise, as to the best modes of diminishing and eradicating fruit pests and diseases from orchards; and also suggestions in practical horticulture, the adaptation of products to soil, climate, and markets, and such other facts and information as shall be calculated to improve the horticultural interests of the State.

SEC. 7. The said board, and, in case of necessity, during the recess of the board, the said inspector, may appoint such quarantine guardians as may be needed to carry out the provisions of this act, whose duties it shall be to see that the regulations of the board and the instructions of the inspector are enforced and carried out; they shall also report to said inspector or to the State board, all infractions or violations of such directions, regulations, and of the law in regard to quarantine, disinfection and destruction of pests, and directions against the spreading pests and diseases. The salary of quarantine guardians shall not exceed two dollars per day, and shall be paid by the owners of orchards and other places and localities under quarantine regulations; and they may maintain an action therefor before any justice of the peace in any township in which any quarantined locality is wholly or in part situated. But in no case shall they have any claim upon the State for such services.

SEC. 8. It shall be the duty of the secretary to attend all meetings of the board and to preserve records of its proceedings and correspondence; to collect books, pamphlets, periodicals, and other documents containing valuable information relating to horticulture, and to preserve the same; to collect statistics and other information showing the actual condition and progress of horticulture in this State and elsewhere, to correspond with agriculture and horticulture societies, colleges, and schools of agriculture and horticulture, and other persons and bodies, as he may be directed by the board, and prepare, as required by the board, reports for publication, and he shall also act as assistant to and obey the directions of the inspector of fruit pests in the exercise of the duties of his office, and shall be paid for his services as such secretary and assistant a salary of not to exceed seventy-five dollars per month.

SEC. 9. The inspector of fruit pests shall receive as compensation for his services not to exceed the sum of one hundred and fifty dollars per month, and his actual traveling expenses shall be allowed, not to exceed seven hundred and fifty dollars per annum; the other members of the said board shall receive no compensation whatever.

SEC. 10. The board shall biennially, in the month of January, report to the legislature a statement of its doings, with a copy of the treasurer's accounts for the two years preceding the session thereof, and abstracts of the reports of the inspector of fruit pests and secretary. Said report shall not exceed one hundred printed pages.

In 1885 sections 8, 9, and 10 were amended as follows:<sup>1</sup>

SEC. 8. It shall be the duty of the secretary to attend all meetings of the board, and to preserve records of its proceedings and correspondence; to collect books, pamphlets, and periodicals, and other documents containing valuable information relating to horticulture, and to preserve the same; to collect statistics and other information showing the actual condition of progress of horticulture in this State and elsewhere; to correspond with agricultural and horticultural societies, colleges, and schools of agriculture and horticulture, and other persons and bodies, as he may be directed by the board, and prepare, as required by the board, reports for publication. He shall also act as assistant to and obey the directions of the inspector of fruit pests in the exercise of the duties of his office, and shall be paid for his services as such secretary and assistant a salary of one hundred and fifty dollars per month, to be paid as other State officers.

SEC. 9. The inspector of fruit pests shall receive as compensation for his services the sum of two hundred dollars per month, to be paid as other State officers, and his

<sup>1</sup> Statutes of California, 1885, extra session, Sacramento, superintendent State printing, 1885, pp. 4, 5.

actual traveling expenses shall be allowed, not to exceed one thousand dollars per annum. The members of the board and secretary shall receive their actual traveling expenses in attending semiannual meetings of the board.

SEC. 10. The board shall biennially, in the month of January, report to the legislature a statement of its doings, with a copy of the treasurer's accounts for the two years preceding the session thereof, and abstracts of the reports of the inspector of fruit pests and secretary.

AN ACT to prevent the spreading of fruit and fruit-tree pests and diseases, and to provide for their extirpation.<sup>1</sup>

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. It shall be the duty of every owner, possessor, or occupier of an orchard, nursery, or land where fruit trees are grown within this State, to disinfect all fruit trees grown on such lands infested with any insect or insects, or the germs thereof, or infested by any contagious disease known to be injurious to fruit or fruit trees, before the removal of the same from such premises for sale, gift, distribution, or transportation. Fruit boxes which have been used for shipping fruit to any destination are hereby required to be disinfected previous to their being again used for any purpose; all boxes returned to any orchard, storeroom, salesroom, or any place used or to be used for storage, shipping, or any other purpose, must be disinfected within three days after their return; and any and all persons failing to comply with the requirements of this section shall be guilty of a misdemeanor. All packages known as free packages must be destroyed or disinfected before being again used.

SEC. 2. It shall be the duty of the owner, lessee, or occupier of any orchard within this State to gather all fruit infested by the insects known as the codlin moth, peach moth, red spider, plum weevil, and kindred noxious insects, their larvæ or pupæ, which has fallen from the tree or trees, as often as once a week, and dispose of or destroy the same in such a manner as to effectually destroy all such insects, their larvæ or pupæ. It shall be the duty of the inspector of fruit pests or quarantine guardian to inspect fruit packages and all trees and plants, cuttings, grafts, and scions known or believed to be infested by any insect or insects, or the germs thereof, or their eggs, larvæ, or pupæ, injurious to fruit or fruit trees, or infected with any disease liable to spread contagion, imported or brought into this State from any foreign country, or from any of the United States or Territories, and if, upon inspection, such fruit or fruit packages are found to be infected or infested it shall be a misdemeanor to offer the same for sale, gift, distribution, or transportation, unless they shall be first disinfected.

SEC. 3. Every person shipping fruit trees, scions, cuttings, or plants from any orchard, nursery, or other place where they were grown or produced shall place upon or securely attach to each box, package, or parcel containing such fruit trees, scions, cuttings, or plants a distinct mark or label showing the name of the owner or shipper and the locality where produced. And any person who shall cause to be shipped, transported, or removed from any locality declared by the State board of horticulture to be infested with fruit-tree or orchard pests, or infected with contagious diseases injurious to trees, plants, or fruits, unless the same shall have been previously disinfected, shall be guilty of a misdemeanor. Disinfection shall be to the satisfaction of the State board of horticulture, or the inspector of fruit pests. When disinfected, the fact shall be stamped upon each box, package, or separate parcel of fruit trees, scions, cuttings, or plants; and any person who shall cause to be shipped, transported, or removed any such box, parcel, or package from a quarantine district or locality not bearing such stamp shall be guilty of a misdemeanor, and may be punished by fine, as provided in section six of this act. Any person who shall falsely

<sup>1</sup> Statutes and Amendments to the Codes, California, extra session, 1884-85. Sacramento, James J. Ayers, superintendent State printing, 1885, p. 40.



cause such stamp to be used, or shall imitate or counterfeit any stamp or device used for such purpose shall be guilty of a misdemeanor.

SEC. 4. It shall be the special duty of each member of the State board of horticulture to see that the provisions of this act are carried out within his respective horticultural district, and all offenders duly punished.

SEC. 5. All fruit trees infested by any insect or insects, their germs, larvæ or pupæ, or infected by disease known to be injurious to fruit or fruit trees, and liable to spread contagion, must be cleaned or disinfected before the first day of April, eighteen hundred and eighty-five, and on or before the first day of April of each succeeding year thereafter. All owners or occupants of lands on which fruit trees are grown failing to comply with the provisions of this section shall be guilty of a misdemeanor and fined as provided for in section six of this act. All fruit, packages, trees, plants, cuttings, grafts, and scions that shall not be disinfected within twenty-four hours after notice by the inspector of fruit pests, or a duly appointed quarantine guardian, or any member of the board of horticulture, shall be liable to be proceeded against as a public nuisance.

SEC. 6. Any person or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and shall, on conviction thereof, be punishable by a fine of not less than twenty-five dollars nor more than one hundred dollars for every offense.

Approved, March 9, 1885.

### LAWS OF CONNECTICUT.

AN ACT providing for a commission on peach yellows. (General assembly, January session, A. D. 1893.)

*Be it enacted by the senate and house of representatives in general assembly convened :*

SECTION 1. The State board of agriculture shall, within thirty days from the passage of this act, appoint a commissioner on peach yellows, to hold office during the pleasure of said board. Said commissioner may, with the approval of said board and under the provisions of this act, adopt and carry out such plans as may be deemed necessary for the eradication of the disease common to peach trees known as peach yellows.

SEC. 2. At all joint meetings of said board and said commissioner for the purpose of conference the commissioner shall receive pay from the board for his expenses only. Said commissioner may, with the approval of said board, appoint one or more deputies in each county; and when employed in the performance of duties imposed by this act said commissioner and his deputies shall receive from the State, upon presentation to the comptroller of bills duly sworn to, audited by the auditing committee of the board of agriculture, and approved by the governor, five dollars per day and their expenses.

SEC. 3. Any peach, almond, apricot, or nectarine tree diseased by the yellows, and all fruit from any such diseased tree, is hereby declared a public nuisance, and it shall be the duty of said commissioner or any deputy, under such regulations as the State board of agriculture may adopt or approve of, to order such trees or such fruit destroyed, and upon the failure of the owner to obey such order, to destroy such trees or fruit, and no damage shall be paid to such owner on account of such destruction.

SEC. 4. Any person may, when ordered to destroy any tree or fruit condemned by the said commissioner or deputy, appeal to the State board of agriculture, and said board shall appoint a committee of three experts, which committee shall not include the person who, acting as commissioner or deputy, ordered such tree or fruit destroyed, and the decision of such committee shall be final.

SEC. 5. Any person who shall, while such an appeal is pending, sell any tree from a nursery where there are found to be diseased trees, or any fruit from such tree; or who shall, without such appeal, or after such final decision, refuse to destroy such tree or fruit, shall be fined not less than one hundred nor more than five hundred dollars.

SEC. 6. Any person that shall knowingly buy for the purpose of selling, or shall sell or offer for sale, any fruit from such diseased trees, shall be fined not less than ten nor more than one hundred dollars.

SEC. 7. For the purpose of investigation or for the purpose of destroying trees or fruit known to be diseased, the said commissioner and his deputies may enter any premises, and any person who shall prevent or attempt to prevent such entry shall be punished by a fine of not less than ten nor more than one hundred dollars, or imprisoned in a common jail not less than ten nor more than sixty days, or both.

SEC. 8. Prosecutions for violation of this act may be brought before justices of the peace, or any city, borough, town, police, or common pleas court having criminal jurisdiction, by any prosecuting officer, or by the commissioner on peach yellows, or any of his deputies, and for such purpose said commissioner and his deputies shall have all the powers of grand jurors.

SEC. 9. This act shall take effect upon its passage.

Approved, June 14.

## LAWS OF DELAWARE.

AN ACT to protect the peach orchards of lower Delaware from the disease known as peach yellows.

*Be it enacted by the senate and house of representatives of the State of Delaware in general assembly met:*

SECTION 1. That it shall be unlawful for any person or persons to keep any peach, almond, apricot, or nectarine tree infected with the contagious disease known as the yellows, in this State south of a line beginning in the village of Whiteleysburg and at the dividing line between Delaware and Maryland, and running thence in about an easterly course and following the most direct public road to the village of Hocklandville, thence in about the same course and following the most direct public road to the town of Felton, thence in the same course through said town of Felton following the main street thereof, thence still in about an easterly course and following the most direct public road to the town of Frederica, thence continuing through the said town of Frederica in about the same course but following the street that leads past the Methodist Church of said town until it reaches Murderkill Creek, and thence following the course of said Murderkill Creek until it reaches the Delaware Bay;<sup>1</sup> that all of said trees so infected shall be subject to destruction as common nuisances, as hereinafter provided, and no damages shall be awarded in any court in this State for entering upon premises and destroying such diseased trees if done in accordance with the provisions of this act; and it shall be the duty of every person as soon as he becomes aware of the existence of such disease in any tree owned by him to effectually destroy or cause the same to be destroyed.

SEC. 2. In any hundred in this State south or partly south of the line mentioned in section 1 of this act, in which such disease exists, or in which there is good reason to believe it exists, or danger may justly be apprehended of its introduction, as soon as such information is communicated to the governor of this State by a notice signed by ten or more freeholders and peach growers of said hundred, it shall become the duty of the governor to appoint forthwith three competent freeholders and peach growers of said hundred as commissioners, who shall hold office for the period of six months from the date of their appointment.

SEC. 3. It shall be the duty of the commissioners within five days after their appointment to notify the governor of their acceptance of their appointment, and in case of the nonacceptance of one or more of said commissioners within the said five days, or in case of a vacancy or vacancies in the said board on account of the refusal of one or more of

<sup>1</sup> In that part of Delaware south of this line the orchards were nearly free from disease, while to the north nearly every orchard was affected. The result of this condition was a sharp fight in the assembly, members from the northern part of the State opposing a yellows law and those from the southern part urging it. The result was this compromise.

the commissioners to act, or from any other cause, the governor shall immediately fill such vacancy or vacancies by the appointment of other commissioner or commissioners, who shall likewise be freeholders and peach growers of the hundred.

SEC. 4. It shall be the duty of the said commissioners, upon or without complaint, wherever it comes to their knowledge that the disease known as yellows exists or is supposed to exist, within the limits of their hundred, to proceed without delay to examine the trees supposed to be infected, and if the disease is found to exist a distinguishing mark shall be placed upon the said diseased trees and the owner notified by a written notice given to him in person or left at his usual place of residence, or if the owner be a nonresident of said hundred, by leaving a notice with the holder or tenant of the premises on which said diseased trees are found, or with the person in whose charge or possession the said trees may be; or if there be no holder or tenant of said premises, or person in charge or possession of said trees, then said notice may be sent to the post-office address of the said owner, if it is known to the commissioners, or it may be affixed to any part of the premises; the said notice shall contain a simple statement of the facts as found to exist, with an order to effectually remove or destroy, by fire or otherwise, the trees so marked and designated, within twenty days, Sundays excepted, from the date of the service of said notice.

SEC. 5. Whenever any person shall refuse or neglect to comply with the order to remove and destroy the trees marked by the commissioners as aforesaid it shall become the duty of the commissioners to cause said trees to be removed and destroyed without delay, employing all necessary aid for that purpose, and for the purpose of said removal and destruction the said commissioners, their agents and workmen, shall have the right and power to enter upon any and all premises within their hundred.

SEC. 6. If any owner neglects to remove and destroy, or cause to be removed and destroyed as aforesaid, such diseased trees, after such examination and notification, within the time hereinbefore specified, such person shall be deemed guilty of a common nuisance, and upon conviction thereof shall be fined not exceeding fifty dollars, and any justice of the peace of the county in which the said hundred is located shall have jurisdiction thereof.

SEC. 7. The said commissioners shall be allowed for their services under this act two dollars for each full day and one dollar for each fraction of a day in which they are actually employed, and their other charges and disbursements, including the costs and expenses incurred in the removal and destruction of said diseased trees, as well as any other charges and disbursements incurred under this act, to be audited by the levy court of their county and paid as other bills against the county are paid. But the counties shall not be required to pay any State tax on account of the commissioners appointed under this act.

SEC. 8. This act shall be deemed and taken to be a public act.

In 1891 the general assembly of Delaware passed another yellows law, which is as follows:

AN ACT concerning peach yellows.

*Be it enacted by the senate and house of representatives of the State of Delaware in general assembly met:*

SECTION 1. Within twenty days after the passage of this act the governor shall appoint in each hundred in Kent and Sussex counties, except Duck Creek and Kenton hundreds in Kent County, three judicious, intelligent, and substantial freeholders and peach growers as "peach commissioners" for their respective hundreds. One of said commissioners shall be appointed for one year from the first of May, A. D. 1891; one for two years from the first of May, 1891; and one for three years from the first of May, 1891; and until his successor shall be duly appointed. Upon a vacancy occurring by any cause it shall be filled by a new appointment for the unexpired term. When a full term expires by its own limitation it shall be filled by an appointment for three years, and so on, successively.

SEC. 2. It shall be the duty of said commissioners, on the application of five peach growers of the hundred, to make two careful and searching examinations and inspections of all peach trees within the respective hundreds during each year. The first shall be made between the fifteenth of April and the fifteenth of May; and the second between the fifteenth of July and the fifteenth of August in each year, provided that the first examination and inspection may be made any time prior to the first of June, A. D. 1891.

SEC. 3. The said commissioners shall mark or cause to be marked every tree, wherever found, having the disease known as "the yellows," and immediately notify the owner thereof in writing. The notices shall give the number of trees so diseased and their location with reasonable certainty. If the owner resides in the hundred the notice shall be delivered to the owner himself if at home; but if not it shall be sufficient to fasten to the front door of the mansion house or dwelling. But when the owner does not reside in the hundred and there is a tenant in occupancy, the notice may be served upon him in the same manner and with like effect as if he were the owner; and where there is neither owner nor tenant in possession the notice shall be fastened to the front door, as above required, and a copy shall also be mailed to his address.

SEC. 4. Every owner shall, as soon as practicable after such notice has been given, as aforesaid, pull up, remove, and destroy every tree so diseased, so that not a vestige thereof shall remain. If the notice be given on or before the first of June the trees shall be pulled up and destroyed prior to the fifteenth of July following; and if after the first of June and prior to the fifteenth of August, they shall be pulled up and destroyed not later than the fifteenth of October following.

SEC. 5. Trees so ordered to be pulled up and destroyed may be used for firewood.

SEC. 6. That any owner who after being notified as aforesaid shall neglect or refuse to pull up and destroy such diseased trees within the time specified, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten nor more than fifty dollars; and besides shall be liable in damages to any adjacent owner who may suffer loss on account of such neglect or refusal.

SEC. 7. Immediately after the fifteenth of July and the fifteenth of October in each year, the said commissioners shall again visit each and every orchard in which they had found diseased trees, to see whether or not they have been pulled up and destroyed; and if they have not the said commissioners shall forthwith hire men and teams to have it done, and as soon as done they shall prosecute all delinquents for their neglect or refusal to comply with the law.

SEC. 8. The expenses which may be incurred by the commissioners in pulling up and destroying diseased trees as aforesaid, as well as the pay of the commissioners themselves, shall be paid out of the State treasury on warrants drawn thereon by the commissioners, and accompanied by a certificate of the clerk of the peace of the proper county that a full and itemized account of such expenses and of their time has been filed in his office.

SEC. 9. For every day necessarily and properly employed in the discharge of the duties imposed by this act each commissioner shall be paid the sum of two dollars, and for a half day so employed one dollar, to be paid as provided in section 8, immediately preceding: *Provided*, That before drawing their warrants for their pay they shall also file with the clerk of the peace a report of their inspection and work. This report shall state the number of orchards visited, the whole number of trees, and the number of those diseased and destroyed.

SEC. 10. Without excluding other symptoms or evidence of "the yellows," the presence of the small, willow twigs or water shoots and premature fruit shall be conclusive proof of the existence of the disease.

SEC. 11. For anything lawfully done by the said commissioners, or any other person authorized by them, this act shall be a complete protection, and may be pleaded in bar in any action brought against them.

SEC. 12. The commissioners shall not be charged any fee for their commissions hereby authorized to be issued to them.

SEC. 13. In case the commissioners shall at any time find trees affected with "yellows," and evidently undergoing a thorough course of remedial treatment with indications of success, they may, in the exercise of their judgment, suspend condemnation of such trees until the next examination.

SEC. 14. Chapter 700, vol. 18, of the laws of Delaware is hereby repealed.

SEC. 15. This act shall take effect from and after October 1, 1891, but shall not apply to Newcastle County, nor to Duck Creek or Kenton hundreds in Kent County.

Passed at Dover May 6, 1891.

## LAWS OF KENTUCKY.

AN ACT to prevent the spread of a disease known as the "black knot" in plum, cherry, and other trees.<sup>1</sup>

*Be it enacted by the general assembly of the Commonwealth of Kentucky:*

SECTION 1. It shall be unlawful for any person knowingly or willfully to keep any plum, cherry, or other trees infected with the contagious disease or fungus known as the "black knot;" that every tree so infected is hereby declared to be a public nuisance, and no damages shall be awarded in any court in this State for entering upon premises and cutting away or severing the diseased part or parts of any tree so infected, and destroying the same, or cutting down or removing such infected tree altogether, and destroying the same, if done in accordance with the provisions of this act.

SEC. 2. In any county of this State in which such contagious disease exists, or where there is good reason to believe it exists, or danger may be justly apprehended of its introduction, it shall be the duty of the county judge of any county, upon the application made in writing and signed by at least three freeholders who are residents of said county, to appoint forthwith three competent freeholders, who are residents of said county, who shall be fruit growers of said county, as commissioners, who shall hold office during the pleasure of said county judge, and such order of appointment and of revocation shall be entered at large on the county records.

SEC. 3. It shall be the duty of said commissioners, within ten days after appointment as aforesaid, to file their acceptances of the same with the clerk of the county court of said county, and said clerk shall be ex officio clerk of said board of commissioners, and he shall keep a correct record of the proceedings of said board in a book to be provided for the purpose, and shall file and preserve all papers pertaining to the duties and actions of said commissioners, or either of them, which shall be a part of the records of said county.

SEC. 4. It shall be the duty of the commissioners or any one of them, upon or without complaint, whenever it comes to their notice that the disease known as the "black knot" exists, or is supposed to exist, within the limits of their county to proceed without delay to examine the trees supposed to be infected, and if the disease is found to exist a distinguishing mark or marks shall be placed upon that part or those parts of every tree so infected, which, in the judgment of the commissioner or commissioners, should be removed and destroyed; or if, in the judgment of such commissioner or commissioners, any tree so infected should be entirely removed and destroyed, then the trunk of such tree shall be thoroughly girdled, and a written notice given to the owner personally or by leaving the same at his usual place of residence, or if the owner be a nonresident by leaving such notice with the person in charge of such trees. The notice shall contain a simple statement of the facts as found to exist, with an order to effectually remove and destroy by fire the part or

<sup>1</sup>Acts of the General Assembly of the Commonwealth of Kentucky, session of 1894, Chapter CL. Capital Printing Company, Frankfort, Ky., 1894, pp. 314-317.

parts of every tree so marked and designated or every such tree entire which shall be so girdled, as the case may be, within ten days from the date of the notice above required. Such notice and order to be signed by the three commissioners or any two of them.

SEC. 5. Whenever any person shall refuse or neglect to comply with the order mentioned in the last section, it shall become the duty of the commissioners to carry out the direction of said order, and forthwith to remove and destroy by fire every tree, or part of tree so girdled or marked as aforesaid, employing all necessary aid for that purpose, the expenses for such removal and destruction to be a charge against the county; and for the purpose of such removal and destruction, the said commissioners, their agents and employees, shall have the right and authority to enter upon any and all premises within their county.

SEC. 6. If any owner, or if such owner be a nonresident, then if any person in charge of such trees neglects to remove and destroy by fire every tree or part of tree so found to be infected, and marked or girdled as aforesaid, after notification and within the time hereinbefore prescribed, such person shall be guilty of a misdemeanor and punished by a fine not exceeding twenty-five dollars, or by imprisonment in the county jail not exceeding ten days, or both, in the discretion of the court; and any justice of the peace of the county in which such offense shall be committed shall have jurisdiction thereof, and all such fines so collected shall be turned over to the treasurer of said county, or other proper officer, to be designated by said county judge, to be held by him subject to the order of said court.

SEC. 7. The commissioners shall be allowed for services under this act two dollars each for each full day and one dollar each for one half day, and other reasonable charges and disbursements hereunder, to be audited as well as any other charges and disbursements under this act by said county judge, to be paid to such commissioners as other county claims are paid. Such fees and all reasonable charges and disbursements of said commissioners in each case may be recovered by the county in its own name from the owner of the diseased trees on account of which such fees, charges, and disbursements became payable or were incurred.

SEC. 8. In counties where there are cities of the first and second classes, the mayor shall discharge the duties, and the cities make the payments provided for in this act, so far as said disease exists in any of said cities.

Approved, March 19, 1894.

## LAWS OF MARYLAND.<sup>1</sup>

AN ACT to provide for the destruction of fruit trees in Washington County infected with the disease known as the "yellows."

*Be it enacted by the general assembly of Maryland:*

SECTION 1. That it shall be unlawful for any person to keep in Washington County any peach, almond, apricot, or nectarine tree infected with the contagious disease known as the "yellows," or to offer for sale or shipment, or to sell or ship to others any such trees or the fruit thereof in any form, and any person convicted before any justice of the peace of selling or shipping said trees or the fruit thereof in any form, knowing the same to be diseased, shall be fined a sum not exceeding ten dollars and costs, or upon failure to pay the same, shall be confined in the county jail for a term not exceeding thirty days.

SEC. 2. That the trees and fruit so infected shall be subject to destruction as public nuisances as hereinafter provided, and no damages shall be awarded in any court in the State or by any justice of the peace thereof, for entering upon premises and destroying such diseased trees and fruit if done in accordance with the provisions of this act, and it shall be the duty of every person as soon as he becomes aware of

<sup>1</sup>Laws of Maryland, Chapter XXVI, 1890, pp. 20-22.

the existence of such disease in any tree or fruit owned by him to forthwith destroy the same or cause it to be destroyed.

SEC. 3. That it shall be lawful for the Western Maryland Fruit Growers' Association of Washington County to appoint each year three competent members thereof for each election district in said county, or for such of said election districts as said association may deem fit, to act as commissioners, who shall hold said office during the year following their appointment, or during the pleasure of said association.

SEC. 4. That it shall be the duty of said commissioners immediately after their appointment to give notice thereof in such newspaper of said county as they may select, and it shall be their duty whenever it comes to their notice that the disease known as the "yellows" exists in any trees or fruit in their respective election districts to proceed forthwith to examine, or cause to be examined, the trees or fruit supposed to be infected, and if the disease is found after such examination to exist, a distinguishing mark shall be placed upon said diseased trees by said commissioners, or by someone directed by them, and the owner thereof notified personally or by a written notice left at his usual place of residence, or by leaving the notice with the person in charge of the trees or fruit or in whose possession the same may be, said notice to contain a simple statement of the facts as found to exist, with an order to effectually remove and destroy by fire or otherwise the trees so marked within five days from the date of the service of said notice, and in case of fruit so infected such notice shall require the person in whose possession or control it is found to immediately destroy the same or cause it to be destroyed.

SEC. 5. That whenever any person shall refuse or neglect to comply with the order to destroy the trees or fruit so ordered to be destroyed it shall be the duty of said commissioners to lodge a complaint before one of the justices of the peace of said county, who shall forthwith summon the owner or other person so neglecting or refusing, and upon being satisfied, after an examination into the facts, of the existence of the said disease in the trees or fruit, as charged by said commissioners, it shall be the duty of said justice of the peace to forthwith issue an order to said commissioners, or one of them, or to a constable of said county, to destroy said trees or fruit, and for the purpose of destroying the same it shall be lawful for said commissioners or constable to enter upon any premises in said county and seize said diseased trees or fruit wherever found and have the same destroyed by fire or otherwise.

SEC. 6. That it shall be the duty of said justice of the peace in passing the order as provided in the preceding section to fix such fine and penalty as he may see fit, not exceeding the sum of ten dollars for each offense, and all costs incident to or attending such proceedings, and upon failure to pay said fine and costs to commit said person to the county jail for a term not exceeding thirty days.

SEC. 7. That "yellows" is hereby declared to be a contagious disease affecting the constitution and vital growth of the tree and manifested by the following symptoms or one of them: 1. A premature ripening of the fruit, which is flavorless, and with the color thereof not solid, but mottled or variegated. 2. Wiry growth of shoots from the trunk or branches of the tree.

SEC. 8. That this act shall take effect from the date of its passage.

Approved, February 18, 1890.

AN ACT to provide for the destruction of fruit trees in the State of Maryland infected with the disease known as the "yellows."<sup>1</sup>

*Be it enacted by the general assembly of Maryland :*

SECTION 1. That it shall be unlawful for any person to keep, or allow to be and remain on his lands or premises, in the State of Maryland, any peach, almond, apricot, or nectarine tree infected with the contagious disease known as the yellows, or

<sup>1</sup>Laws of the State of Maryland, session of 1892, Chapter DCXXXIX, pp. 858-861. C. H. Baughman, & Co., State printers, Annapolis, Maryland, 1892.

to offer for sale or shipment, or to sell or ship to others any such trees, or the fruit thereof in any form; and any person convicted before any justice of the peace of selling or shipping said trees or the fruit thereof in any form, knowing the same to be so diseased, shall be fined a sum not exceeding ten dollars and costs, or upon failure to pay the same shall be confined in the county jail for a term not exceeding thirty days: *Provided*, The provisions of the act shall not apply to Washington County.

SEC. 2. That the trees and fruit so infected shall be subject to destruction as public nuisance as hereinafter provided; and no damages shall be awarded in any court of this State, or by any justice of the peace thereof, against any person or persons for entering upon lands or premises and destroying such diseased trees and fruit if done in accordance with the provisions of this act; and it shall be the duty of every person as soon as he becomes aware of the existence of such disease in any tree or fruit owned by him to forthwith destroy by burning the same, or cause it to be destroyed by burning.

SEC. 3. That it shall be the duty of the county commissioners of the various counties, on the application of three or more citizens of said county, to appoint each year three competent peach growers for each election district of the several counties, or for such of said election districts as such commissioners may deem fit, to act as "tree and fruit inspectors," who shall hold said office during the year following their appointment, or during the pleasure of said county commissioners.

SEC. 4. That it shall be the duty of said "tree and fruit inspectors" immediately after their appointment to give notice thereof in such newspapers of their county as they may select; and it shall be their duty whenever it comes to their notice that the disease known as the "yellows" exists in any trees or fruit in their respective election districts to proceed forthwith to examine, or cause to be examined, the trees or fruit supposed to be infected, and if the disease is found after such examination to exist, a distinguishing mark shall be placed upon said diseased trees by said "tree and fruit inspectors," or by some one directed by them, and the owner thereof notified personally or by a written notice left at his usual place of residence, or by leaving the notice with the person in charge of the trees or fruit, or in whose possession they may be, said notice to contain a simple statement of the facts as found to exist, with an order to effectually remove and destroy by fire the trees so marked within fifteen days from the date of the service of said notice, and in case of fruit so infected such notice shall require the person in whose possession or control it is found to immediately destroy the same or cause it to be destroyed by fire.

SEC. 5. That whenever any person shall refuse or neglect to comply with the order to destroy the trees or fruit so ordered to be destroyed it shall be the duty of said "tree and fruit inspectors" to lodge a complaint before one of the justices of the peace of the county, who shall forthwith summon the owner, or other person so neglecting or refusing, and upon being satisfied, after an examination into the facts, of the existence of the said disease in the trees or fruit as charged by said "tree and fruit inspectors," it shall be the duty of said justice of the peace to forthwith issue an order to said "tree or fruit inspectors," or one of them, or to a constable of said county, to destroy said trees or fruit; and for the purpose of destroying the same it shall be lawful for said "tree and fruit inspectors" or constable to enter upon any premises in said county and seize said diseased trees or fruit wherever found, and have the same destroyed by fire.

SEC. 6. That it shall be the duty of said justice of the peace, in passing the order, as provided in the preceding section, to fix such fine and penalty as he may see fit, not exceeding the sum of ten dollars for each offense, and all costs incident to and attending such proceeding, and upon failure to pay said fine and costs to commit said person to the county jail for a term not exceeding thirty days.

SEC. 7. That "yellows" is hereby declared to be a contagious disease affecting the constitution and vital growth of the tree, and manifested by the following symptoms or one of them: 1st, a premature ripening of the fruit, which is flavorless, and with



the color thereof not solid, but mottled or variegated; 2d, wiry growth of shoots from the trunk or branches of the tree.

SEC. 8. That said "tree and fruit inspectors" together, or any two or one of them, may discharge the duties imposed by this act, and that they shall receive for each day of actual service a per diem of two dollars and in the same ratio for a fraction of a day, to be paid by the county commissioners of the county, as well as such other charges and expense as they shall be put to in the discharge of the duties of this act, which shall be paid by the county commissioners; all expenses, however, arising out of the failure or refusal of the owner or occupant of any lands or premises to obey the order of the "tree and fruit inspectors," and that they shall be put to in the removal and destruction of any tree or fruit, shall be and constitute a lien and charge on the lands and premises where said trees and fruit were found, recoverable by the county commissioners of the county for county purposes, through the agency of tax collectors, as taxes are collected.

SEC. 9. That if any person shall in anywise interfere with or hinder and impede said "tree and fruit inspectors" or any of them, their agents or workmen, or the constable and his assistants in the performance of their duties, under this act, such persons shall be guilty of a misdemeanor and shall be punished by fine not exceeding one hundred dollars, or by imprisonment in county jail for not exceeding three months, or by both fine and imprisonment.

SEC. 10 (2). That this act shall take effect from the date of its passage.

Approved, April 7 1892.

## LAWS OF MICHIGAN.

AN ACT to prevent the spread of the contagious disease of the peach tree known as the yellows in the counties of Allegan, Van Buren, and Ottawa, and to provide measures for the eradication of the same.<sup>1</sup>

*The people of the State of Michigan enact:*

SECTION 1. That any and all trees in the counties of Allegan, Van Buren, and Ottawa, whether peach, almond, apricot, or nectarine, infected with the contagious disease known as the yellows, shall be held to be without pecuniary value and the fruit unfit for use as food; and that, as the best-known means of preventing the spread of such disease, both tree and fruit so infected shall be subject to destruction as public nuisances.

SEC. 2. In any township of the counties of Allegan, Van Buren, and Ottawa in which the contagious disease of the peach, almond, apricot, or nectarine tree known as the yellows is believed to exist, or in which danger may be apprehended of its spread or introduction, it shall be competent for any five or more residents of the same or of an adjoining township to make allegation of such belief or apprehension in writing, addressed to the township board of such township, and requesting them to take measures, as hereinafter provided, to prevent the spread of such contagious disease and for the eradication of the same, which request must be filed by the clerk of the township in which such application is made.

SEC. 3. It shall be the duty of the township clerk, on the receipt of the request specified in section 2 of this act, to call a meeting of the township board within ten days thereafter, and upon the assembling of said board to lay such allegation and request before them; whereupon it shall be the duty of said board to appoint a discreet and suitable person as commissioner, who shall hold his office during the pleasure of said board, and to said commissioner shall be submitted any and all complaints of the existence or impending introduction of said contagious disease arising under the provisions of this act within such township.

SEC. 4. Complaints of the existence or impending introduction of said disease may be made by any one or more residents of the same or of any adjoining township, and must be in writing, addressed to said commissioner, and must state distinctly

<sup>1</sup> Local Acts, Michigan, session of 1875. Lansing, W. S. George & Co., printers, No. 379, p. 726.

the premises on which such disease is alleged to exist, or the name and residence of the owner, and the place of distribution, shipment, or exposure for sale of the fruit alleged to be so infected.

SEC. 5. It shall be the duty of such commissioner, on the receipt of any such complaint, to proceed without unnecessary delay to the examination of the alleged case or cases; and if he shall become satisfied of the actual existence of the yellows in standing trees he shall affix a distinguishing mark to each tree so affected, and immediately notify the owner or occupant of the premises on which such trees shall be standing, in person or by leaving a written notification at his usual place of residence, requiring him, within five days from the date of such notice, to uproot and effectually destroy by fire or otherwise the trees so designated; and in the case of affected fruit introduced into the township, or distributed, shipped, or offered for sale therein, he shall in the same manner notify the owner or person in charge thereof to withhold the same from distribution, shipment, or sale, and to destroy the same within the above-named period of five days from such notice.

SEC. 6. In case the trees decided to be so infected shall be upon nonresident lands it shall be the duty of the commissioner to give the required notice by posting a copy of the same at some conspicuous place upon said nonresident premises, and by serving a copy of the same upon any resident of the township or vicinity who may be in charge of such premises, and by directing a copy of such notice by mail to the owner of said premises, if his name and residence shall be known.

SEC. 7. Whenever the person or persons who shall have been served with the notice or notices provided in sections 5 and 6 of this act shall refuse or neglect to comply with the requirements of the same within the period therein prescribed it shall be the duty of said commissioners to immediately enter upon the premises and effectually uproot and destroy such affected or diseased trees or fruits.

SEC. 8. Any owner or occupant of premises on which such condemned trees or fruit shall be, who shall consider himself aggrieved by the decision of the commissioner, may, within three days from the date of the notice served upon him, by a written notification, inform said commissioner of his purpose to contest the decision as to the diseased or infected character of such trees or fruit; whereupon it shall be the duty of such commissioner forthwith to notify the members of the township board to assemble on the premises on which such trees or fruit shall be, on the day on which the aforesaid notice requiring the destruction of such diseased trees will expire, then and there to examine the trees or fruit in question, and to hear such evidence as shall be presented bearing upon the question at issue; and if said township board, or a majority thereof, shall, after a proper hearing of the case, decide that said trees are so diseased or affected, they shall direct said commissioner, without unnecessary delay to uproot and destroy the trees in question, or to destroy the fruit, as the case may be, unless the owner or occupant shall forthwith proceed to do so.

SEC. 9. In any case in which an owner or occupant of premises, or a person in charge thereof, shall be notified by a commissioner of the diseased or infectious character of any trees or fruit thereon, whether grown thereon or imported, and in which such owner, occupant, or person in charge shall refuse or neglect, in compliance with such notice, after its confirmation by the township board, to destroy such trees or fruit, the expenses of the commissioner in effecting such destruction, including the cost of the assembling of the township board and of the evidence necessarily produced in the case, shall be a charge, firstly, upon the defendant in the case; or, secondly, upon the premises upon which such trees or fruit shall be grown.

SEC. 10. Any owner, occupant, or person in charge of premises or fruit who shall refuse or neglect to comply with the order of the commissioner for the destruction of diseased or affected trees or fruit, upon the confirmation of such order by the township board, as provided in this act, shall be liable to a fine, to be imposed at the discretion of such township board, not exceeding one hundred dollars with costs, to include those of the commissioner and of the township board; the same to be certified

to the supervisor of the township and by him collected in an action of assumpsit, before any justice of the peace having jurisdiction of the case; or, upon the order of the board, to be included in the next annual tax list, and collected as a tax upon the premises upon which such trees or fruit shall be grown.

SEC. 11. The proceeds of all fines accruing under the provisions of this act shall be paid into the treasury of the township, to the credit of the general fund; and the commissioner and the members of the township board shall, for services rendered under the provisions of this act, be allowed the same rate per diem that is by law allowed for ordinary sessions of said board, which shall be paid from said general fund.

SEC. 12. This act shall take immediate effect.

Approved, May 1, 1875.

This act was in force four years. It was superseded by the act of 1879.

AN ACT to prevent the spread of the yellows, a contagious disease, among peach, nectarine, and other trees, and to extirpate the same, and to repeal the local act 379 of the session laws of 1875, approved May 1, 1875.<sup>1</sup>

*The people of the State of Michigan enact:*

SECTION 1. That it shall be unlawful for any person to keep any peach, nectarine, or other trees infected with the contagious disease known as the yellows, or to offer for sale or shipment, or to sell or ship to others, any of the fruit thereof; and no damage shall be awarded in any court of this State for the destruction of such diseased trees and fruit, as hereinafter provided; and it shall be the duty of every citizen, as soon as he becomes aware of the existence of such disease in any tree or fruit owned by him, to forthwith destroy or cause the same to be destroyed.

SEC. 2. In any township in this State in which such contagious disease exists, or in which there is good reason to believe it exists, or danger may be justly apprehended of its introduction and spread, it shall be lawful for any five or more resident freeholders of the same or of any adjoining township to set forth such fact, belief, or apprehension in a petition addressed to the board of such township, requesting them to appoint three commissioners, as hereinafter provided, to prevent the spread or introduction of such disease, and to eradicate the same, which petition shall be filed with and become a part of the records of the township to which such application is made.

SEC. 3. It shall be the duty of the township clerk, on receipt of the petition specified in section 2 of this act, to call a meeting of the township board within ten days thereafter, and upon the assembling of said board to lay such petition before them, whereupon it shall be the duty of said board, upon the hearing of said petition, to appoint three competent resident freeholders of such township as commissioners, who shall hold their office during the pleasure of said board, and such order of appointment and revocation, when revoked, shall be entered at large upon the records of the township.

SEC. 4. It shall be the duty of said commissioners, within ten days after appointment as aforesaid, to file their acceptance of the same with the clerk of said township, and said clerk shall be ex officio clerk of said board of commissioners, and he shall keep a correct record of the proceedings of said board in a book to be provided for the purpose, and shall file and preserve all papers pertaining to the duties of said commissioners, or either of them, which shall be a part of the records of said township.

SEC. 5. Any one or more residents of the same or adjoining township may make complaint in writing and on oath, addressed to said commissioners, delivering the same to either of them, setting forth that said disease exists, or that he has good reason to believe it exists, upon lands within the township in which said commissioners

<sup>1</sup>Public Acts, Michigan, session of 1879. Lansing, W. S. George & Co., printers, No. 32, p. 27.

reside, designating the same with reasonable certainty, or that trees or fruit infected with such disease are offered for sale or shipment, or have been introduced therein, designating the person in whose possession or under whose control such trees or fruit are believed to be.

SEC. 6. It shall be the duty of the commissioner to whom such complaint is delivered to proceed without unnecessary delay to examine the trees or fruit so designated, and if he shall become satisfied that the contagious disease actually infects such trees or fruit he shall, without injuring the same, fix a distinguishing mark upon each of the trees so infected, and immediately notify the person to whom such trees belong, personally or by leaving a written notice at his usual place of residence, if he be a resident of the county, and if such owner be a nonresident of such county, then by leaving the same with the person in possession of such trees, requiring him, within fifteen days, Sundays excepted, from the date of the service of said notice, to effectually remove and destroy, by fire or other means, the trees so marked, and in case of fruit so infected such notice shall require the person in whose possession or control it is found to immediately destroy the same or cause it to be done.

SEC. 7. If any person neglects to destroy, or causes to be destroyed, such diseased fruit, after such examination and notification, but sells, ships, or disposes of the same to others, such person shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding a hundred dollars, or by imprisonment in the county jail not exceeding three months, or both, in the discretion of the court; and any justice of the peace in the township where such fruit is sold, shipped, or disposed of, as aforesaid, shall have jurisdiction thereof.

SEC. 8. Whenever any person shall refuse or neglect to comply with the notice to remove and destroy the trees marked by the commissioner as aforesaid, it shall be the duty of said commissioner forthwith to notify the other commissioners to assemble with himself on the premises on which said trees shall be, on the fifteenth day, Sundays excepted, after he shall have made service of such notice, and then and there personally to examine the trees in question, and the evidence bearing on the existence of said disease; and if said commissioners, or a majority of them, shall, after a proper examination of the matter, decide that said trees are infected with said disease, they shall, in case such trees so infected do not exceed six in number, order the same to be removed and destroyed forthwith, or cause it to be done, employing all necessary aid for that purpose, if the person in charge thereof refuses or neglects to do so; and in case the trees found to be infected shall exceed six in number, and the owner thereof shall, upon the serving of said notice, refuse or neglect to remove the same in accordance with the provisions of the act and terms of such notice, then and in that case the said commissioners shall petition the circuit court of the county for an order directing and empowering said commissioners to remove or cause to be removed such infected trees, and the court shall direct the defendant to be summoned and an issue joined therein, and the cause to be tried in a summary manner, and if it shall appear on said trial that said trees are so infected, he shall grant the order prayed for, with costs of prosecution against the owner of such trees; but in case such trees are found not to be infected, he shall dismiss said proceedings, with costs to be taxed against the township in which such commissioners reside.

SEC. 9. Every person who shall wilfully refuse or neglect to comply with the notice of the commissioners, as hereinbefore provided, to remove and destroy said diseased trees, shall be liable for all the costs, charges, and disbursements made upon the proceedings of said commissioners and of the board of commissioners to effect such removal and destruction, together with a penalty of five dollars for each and every day, but not exceeding one hundred dollars in all, such trees remain undestroyed, which costs, charges, disbursements, and penalty shall be recovered of him in an action of trespass upon the case, in the form of assumpsit, brought and prosecuted by the supervisor, in the name and for the benefit of the township, and before any justice of peace therein in the same manner and with like proceedings as

are applicable in civil cases before such courts, and upon judgment being rendered in favor of said township, the said justice of the peace shall issue execution against the defendant in said action, which may be stayed, as in other cases, but when collected, he shall pay the amount thereof forthwith to the treasurer of said township to the credit of the general fund.

SEC. 10. The form of the declaration in any suit instituted as aforesaid may be as follows, to wit: In justice court before A B, justice of ——— township, county ———. The township of ———, said county, complains of C D in an action of trespass upon the case, and says that C D justly owes the said township ——— dollars, being the amount of expenses incurred by said township in the removal and destruction of trees infected with the yellows, from (designating the premises with reasonable certainty), and the penalty incurred by said C D for not removing and destroying said trees pursuant to an act entitled "An act to prevent the spread of yellows, a contagious disease, among peach, nectarine, and other trees, and to extirpate the same;" wherefore the said township brings suit.

A B, *Supervisor.*

SEC. 11. The commissioners shall be allowed for their services under this act \$2 for each full day, and \$1 for each half day, and their other charges and disbursements hereunder, to be audited, as well as any other charges and disbursements under this act, by the township board.

SEC. 12. In all suits and prosecutions under any of the provisions of this act it shall be necessary to prove that such trees or fruit were diseased or infected.

SEC. 13. [Repeals act 379 of local laws of 1875.]

SEC. 14. This act shall take immediate effect.

Approved, April 4, 1879.

This law was in force two years, being superseded by the law of 1881, which is as follows:

AN ACT to prevent the spread of the yellows, a contagious disease, among peach, almond, apricot, and nectarine trees, and to provide measures for the eradication of the same, and to repeal act 32 of the session laws of 1879.<sup>1</sup>

*The people of the State of Michigan enact:*

SECTION 1. That it shall be unlawful for any person to keep any peach, almond, apricot, or nectarine tree infected with the contagious disease known as the yellows, or to offer for sale or shipment, or to sell or ship to others any of the fruit thereof; that both tree and fruit so infected shall be subject to destruction as public nuisances, as hereinafter provided, and no damages shall be awarded in any court in this State for entering upon the premises and destroying such diseased trees and fruit, if done in accordance with the provisions of this act; and it shall be the duty of every person, as soon as he becomes aware of the existence of such disease in any tree or fruit owned by him, to forthwith destroy or cause the same to be destroyed.

SEC. 2. In any township in this State in which such contagious disease exists, or in which there is good reason to believe it exists, or danger may be justly apprehended of its introduction, as soon as such information becomes known to the township board or any member thereof, it shall be the duty of said board to appoint forthwith three competent freeholders of said township as commissioners, who shall hold office during the pleasure of said board, and such order of appointment and revocation shall be entered at large upon the township records.

SEC. 3. It shall be the duty of said commissioners, within ten days after appointment as aforesaid, to file their acceptance of the same with the clerk of said township, and said clerk shall be ex officio clerk of said board of commissioners, and he shall keep a correct record of the proceedings of said board in a book to be provided for the purpose, and shall file and preserve all papers pertaining to the duties and

<sup>1</sup>Public Acts, Michigan, session of 1881. Lansing, W. S. George & Co., State printers, No. 174, p. 210 (see also Howell's Annotated Statutes, Michigan, 1882, Vol. I, Chapter LXVI, p. 587).

actions of said commissioners, or either of them, which shall be a part of the records of said township.

SEC. 4. It shall be the duty of the commissioners, or any of them, upon or without complaint, whenever it comes to their notice that the disease known as yellows exists or is supposed to exist within the limits of their township, to proceed without delay to examine the trees or fruit supposed to be infected, and if the disease is found to exist a distinguishing mark shall be placed upon the diseased trees and the owner notified personally or by written notice left at his usual place of residence, or, if the owner be a nonresident, by leaving the notice with the person in charge of the trees or fruit or the person in whose possession said trees or fruit may be. The notice shall contain a simple statement of facts as found to exist, with an order to effectually remove and destroy, by fire or otherwise, the trees so marked and designated within ten days, Sundays excepted, from the date of the service of the notice; and in case of fruit so infected such notice shall require the person in whose possession or control it is found to immediately destroy the same or cause it to be done. Such notice and order to be signed by the full board of commissioners.

SEC. 5. Whenever any person shall refuse or neglect to comply with the order to remove and destroy the trees marked by the commissioners, as aforesaid, it shall become the duty of the commissioners to cause said trees to be removed and destroyed forthwith, employing all necessary aid for that purpose, the expense for such removal and destruction of trees to be a charge against the township; and for the purpose of said removal and destruction the said commissioners, their agents and workmen, shall have the right and power to enter upon any and all premises within their township.

SEC. 6. If any person neglects to remove and destroy, or cause to be removed and destroyed, as aforesaid, such diseased tree or fruit, after such examination and notification, and within the time hereinbefore specified, such persons shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months, or both, in the discretion of the court, and any justice of the peace of the township where such fruit is sold, shipped, or disposed of, as aforesaid, shall have jurisdiction thereof.

SEC. 7. The commissioners shall be allowed for services, under this act, two dollars for each full day and one dollar for each half day, and their other charges and disbursements hereunder to be audited, as well as any other charges and disbursements under this act, by the township board, all of which costs, charges, expenses, and disbursements may be recovered by the township from the owner of said diseased fruit, or from the owner of the premises on which said diseased trees stood, in an action of assumpsit.

SEC. 8. [Repeals act 32 of 1879.]

Approved, May 31, 1881.

AN ACT to prevent the spread of the yellows, a contagious disease, among peach, almond, apricot, and nectarine trees, and to provide measures for the eradication of the same, and to repeal act 32 of the session laws of 1879.<sup>1</sup>

*The people of the State of Michigan enact:*

SECTION 1. That it shall be unlawful for any person to keep any peach, almond, apricot, plum, prune, cherry, or nectarine tree, infected with the contagious diseases known as yellows or black knot, or to offer for sale or shipment, or to sell or ship to others any of the fruit thereof; that both tree and fruit so infected shall be subject to destruction as public nuisances, as hereinafter provided, and no damages shall be awarded in any court in the State for entering upon premises and destroying such diseased trees or parts of trees and fruit if done in accordance with the provisions of this act; and it shall be the duty of every person, as soon as he

<sup>1</sup>Public Acts, Michigan, session of 1891. Lansing, 1891, No. 158, pp. 199-201. (An imperfect title. Black knot is not mentioned in the title, and the law actually repealed is act 174 of the laws of 1881, and not act 32, session laws of 1879, which was repealed in 1881.)

becomes aware of the existence of such disease in any tree, parts of trees, or fruit owned by him, to forthwith destroy or cause said fruit or trees to be destroyed.

SEC. 2. In any township in this State in which such contagious disease exists, or in which there is good reason to believe it exists, or danger may be justly apprehended of its introduction, as such information becomes known to the township board or any member thereof, it shall be the duty of said board to appoint forthwith three competent freeholders of said township as commissioners, who shall hold office during the pleasure of said board, and such order of appointment and of revocation shall be entered at large upon the township records.

SEC. 3. It shall be the duty of said commissioners, within ten days after appointment as aforesaid, to file their acceptance of the same with the clerk of said township, and said clerk shall be ex officio clerk of said board of commissioners, and he shall keep a correct record of the proceedings of said board in a book to be provided for the purpose, and shall file and preserve all papers pertaining to the duties and actions of said commissioners, or either of them, which shall be a part of the records of said township.

SEC. 4. It shall be the duty of the commissioners, or any one of them, upon or without complaint, whenever it comes to their notice that either of the diseases known as yellows or black knot exists or is supposed to exist within the limits of their townships, to proceed without delay to examine the tree or fruit supposed to be infected, and if the disease is found to exist a distinguishing mark shall be placed upon the diseased trees and the owner notified personally or by a written notice left at his usual place of residence, or, if the owner be a nonresident, by leaving the notice with the person in charge of the trees or fruit or the person in whose possession said trees or fruit may be. The notice shall contain a simple statement of the facts as found to exist, with an order to effectually uproot and destroy, by fire, or as the commissioner shall order, the trees so marked and designated, or such parts thereof, within ten days, Sundays excepted, from the date of the service of the notice; and in case of trees known as nursery stock, or fruit so infected, such notice shall require the person in whose possession or control it is found to immediately destroy the same, or cause it to be done, said notice and order to be signed by the full board of commissioners.

SEC. 5. Whenever any person shall refuse or neglect to comply with the order to remove and destroy the tree or parts of trees so designated and marked by the commissioners as aforesaid, it shall become the duty of the commissioners to cause said tree or parts of trees to be removed and destroyed forthwith, employing all necessary aid for that purpose, the expenses for such removal and destruction of trees or parts of trees to be a charge against the township; and for the purpose of said removal and destruction, the said commissioners, their agents, and workmen, shall have the right and power to enter upon any and all premises within their township.

SEC. 6. If any owner neglects to uproot and destroy, or cause to be removed and destroyed as aforesaid, such diseased tree, or parts of trees or fruit, after such examination and notification, and within the time hereinbefore specified, such person shall be deemed guilty of a misdemeanor and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months, or both, in the discretion of the court; and any justice of the peace of the township where such trees may be, or where such nursery stock or fruit is sold, shipped, disposed of, or delivered as aforesaid, shall have jurisdiction thereof. The words "parts of trees," wherever used in this act, shall refer to black knot only, and not to trees affected with yellows.

SEC. 7. The commissioners shall be allowed for services under this act two dollars for each full day and one dollar for each half day and their other charges and disbursements hereunder, to be audited, as well as any other charges and disbursements under this act, by the township board, all of which costs, charges, expenses, and disbursements may be recovered by the township from the owner of said

diseased fruit, or from the owner of the premises on which said diseased trees stood, in an action of assumpsit.

SEC. 8. All of act number one hundred and seventy-four of the public acts of eighteen hundred and eighty-one be, and the same is hereby, repealed.

This act is ordered to take immediate effect.

Approved, June 24, 1891.

## LAWS OF NEW JERSEY.

AN ACT to prevent the spread of fungous diseases of plants.<sup>1</sup>

Whereas the officers of the State Agricultural [sic] Experiment Station have discovered certain new fungous growth [sic] that threaten [sic] serious injury to important agricultural interests of the State; therefore,

*Be it enacted by the senate and general assembly of the State of New Jersey:*

SECTION 1. That when the officers of the State Agricultural Experiment Station shall discover any new fungous growth which is doing injury to plants or vines, and while the same is confined to limited areas, they are hereby authorized and empowered to enter upon any lands bearing vines or plants so affected, and destroy the same by fire or otherwise, as they shall deem best.

SEC. 2. That any damage to private property resulting from the operation of destroying the said fungous growth by the officers of the State shall be certified to by them and the amount of damage paid to the owners thereof from the same fund and in the same manner as is paid to owners of diseased animals killed by order of the State board of health.

SEC. 3. That expenditures under this act shall not exceed one thousand dollars in any one year.

SEC. 4. That this act shall take effect immediately.

Approved, May 23, 1890.

## LAWS OF NEW YORK.

AN ACT to prevent the spread of the disease in peach trees known as the yellows<sup>2</sup> (passed May 19, 1887).

*The people of the State of New York, represented in senate and assembly, do enact as follows:*

SECTION 1. It shall be unlawful for any one to knowingly or willfully keep any peach, almond, apricot, or nectarine tree infected with the contagious disease known as the yellows, or to offer for sale or shipment, or to sell or ship to others, any of the fruit thereof; that both tree and fruit so infected shall be subject to destruction as public nuisances, as hereinafter provided, and no damages shall be awarded in any court in this State for entering upon premises and destroying such diseased trees and fruit, if done in accordance with the provisions of this act; and it shall be the duty of every person, as soon as he becomes aware of the existence of such disease in any tree or fruit owned by him, to forthwith destroy or cause the same to be destroyed.

SEC. 2. In any town of this State in which such contagious disease exists, or in which there is good reason to believe it exists, or danger may be justly apprehended of its introduction, as soon as such information becomes known to the supervisor thereof it shall be the duty of said supervisor to appoint forthwith three competent freeholders of said town as commissioners, who shall hold office during the pleasure of said supervisor, and such order of appointment and of revocation shall be entered at large upon the town records.

<sup>1</sup> General Public Laws, session of 1890, acts of the 114th legislature of the State of New Jersey and 46th under the new constitution. Trenton, N. J., MacCrellish & Quigley, printers, 1890, pp. 346, 347.

<sup>2</sup> Laws of New York, 110th session, 1887. Albany, N. Y., Banks & Brothers, publishers, 1887, Chapter CCCIII, p. 504.



SEC. 3. It shall be the duty of said commissioners, within ten days after appointment as aforesaid, to file their acceptance of the same with the clerk of said town, and said clerk shall be ex officio clerk of said board of commissioners, and he shall keep a correct record of the proceedings of said board in a book to be provided for the purpose, and shall file and preserve all papers pertaining to the duties and actions of said commissioners, or either of them, which shall be a part of the records of said town.

SEC. 4. It shall be the duty of the commissioners, or any one of them, upon or without complaint, whenever it comes to their notice that the disease known as yellows exists or is supposed to exist within the limits of their town, to proceed without delay to examine the trees or fruit supposed to be infected, and if the disease is found to exist a distinguishing mark shall be placed upon the diseased trees and the owner notified personally or by a written notice left at his usual place of residence, or, if the owner be a nonresident, by leaving the notice with the person in charge of the trees or fruit, or the person in whose possession said trees or fruit may be. The notice shall contain a simple statement of the facts as found to exist, with an order to effectually remove and destroy, by fire or otherwise, the trees so marked and designated, within ten days, Sundays excepted, from the date of the service of the notice; and in case of fruit so infected such notice shall require the person in whose possession or control it is found to immediately destroy the same or cause it to be done. Said notice and order to be signed by the full board of commissioners.

SEC. 5. Whenever any person shall refuse or neglect to comply with the order to remove and destroy the trees marked by the commissioners as aforesaid, it shall become the duty of the commissioners to cause said trees to be removed and destroyed forthwith, employing all necessary aid for that purpose, the expense of such removal and destruction of trees to be a charge against the town; and for the purpose of said removal and destruction the said commissioners, their agents and workmen, shall have the right and power to enter upon any and all premises within their town.

SEC. 6. If any owner neglects to remove and destroy or cause to be removed and destroyed as aforesaid such diseased trees and fruit after such examination and notification and within the time hereinafter specified, such person shall be deemed guilty of a misdemeanor and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months, or both, in the discretion of the court; and any justice of the peace of the town where such fruit is sold, shipped, or disposed of as aforesaid shall have jurisdiction thereof, and all such fines so collected shall be turned over to the supervisor of the town, to be placed by him in the contingent fund of said town.

SEC. 7. The commissioners shall be allowed for services under this act two dollars for each full day and one dollar for each half day, and other reasonable charges and disbursements hereunder, to be audited, as well as any other charges and disbursements under this act, by the board of town auditors, to be paid to said commissioners as other town accounts are paid. Such fees and all reasonable charges and disbursements of said commissioners, in each case, may be recovered by the town, in the name of the supervisor, from the owner of the diseased fruit or trees on account of which such fees, charges, and disbursements became payable or were incurred.

SEC. 8. This act shall take effect immediately.

The new yellows and black knot law of New York forms part of a general law relating to many agricultural subjects, which is entitled "Chapter 338, An act in relation to agriculture, constituting articles 1, 2, 3, 4, and 5 of Chapter XXXIII of the general laws." Approved by the governor April 10, 1893.

Sections 82-84, pages 673, 674, relative to these subjects, are as follows:

#### THE PREVENTION OF DISEASE IN FRUIT TREES.

SEC. 82. No person shall knowingly or willfully keep any peach, almond, apricot, or nectarine tree affected with a contagious disease known as yellows, or offer for

sale or shipment, or sell or ship to others any of the fruit thereof. Nor shall any person knowingly or willfully keep any plum, cherry, or other trees infected with the contagious disease or fungus known as black knot. Every such tree and the fruit of a tree infected with yellows shall be a public nuisance, and no damages shall be awarded for entering upon premises and destroying such trees and fruit if infected with yellows or for cutting away the diseased part of any tree infected with black knot, or altogether destroying such tree if necessary to suppress such disease, if done in accordance with the provisions of this article. Every person when he becomes aware of the existence of such disease in any tree or fruit owned by him shall forthwith destroy or cause such tree or fruit to be destroyed or the infected part to be cut away.

#### APPOINTMENT AND DUTIES OF THE AGENT OF THE COMMISSIONER OF AGRICULTURE.

SEC. 83. When the commissioner of agriculture knows and has reason to believe that any such contagious disease exists, or that there is good reason to believe it exists, or danger is justly apprehended of its introduction in any town or city in the State, he shall forthwith appoint a competent freeholder of such town or city as his agent, who shall hold office during his pleasure and who shall, within ten days after his appointment, file an acceptance of the appointment, with the constitutional oath of office, in the office of the town clerk of the town. Such agent shall on or without complaint, whenever it comes to his notice that either of the diseases known as yellows or black knot exists or is supposed to exist within the limits of the town or city, proceed without delay to examine the trees or fruit supposed to be infected, and if the disease is found to exist a distinguishing mark shall be placed upon the diseased trees. If the disease is black knot such distinguishing mark shall be placed on some affected part of the trees, or if in the judgment of such agent any such trees should be entirely destroyed, then the trunk of such tree shall be thoroughly girdled and thereupon the owner notified personally, or by a written notice signed by such agent and left at his usual place of residence, or if a nonresident by leaving the notice with the person in charge of the trees or fruit, or in whose possession they may be. Such notice shall contain a statement of all the facts found to exist, with an order to effectually remove and destroy by fire or otherwise the trees or parts of trees so marked and designated within ten days, Sundays excepted, from the day of the service of the notice. In case of fruit so infected the notice shall require the person in whose possession or control it is found to immediately destroy the same or cause it to be done.

#### PROCEEDINGS IN CASE OF OWNER'S FAILURE TO DESTROY.

SEC. 84. If any person shall refuse or neglect to comply with the order of such agent to remove and destroy trees or parts of trees so marked by him, such agent shall cause such trees or parts of trees to be removed and destroyed forthwith, employing all necessary assistance for that purpose; and such agent or his employees may enter upon any and all premises within the town or city for the purpose of such removal and destruction. Such agent shall be entitled to compensation for his services under this and the preceding sections at a rate of two dollars for each full day spent by him in the discharge of his duties, and the necessary disbursements paid or incurred by him, which, with the expense of removal and destruction of any such trees or fruit, shall be a town charge.

### LAWS OF OREGON.

The following sections relative to plant diseases occur in an act creating a State board of horticulture, passed by the legislative assembly of Oregon in 1889.<sup>1</sup>

SEC. 4. The board may receive, manage, use, and hold donations and bequests of money and property for promoting the objects of its formation. It shall meet on

the second Monday of April and October in each year, and as much oftener as it may deem expedient for consultation on and for the adoption of those measures that will best promote the horticultural industries of the State. It may, but without expense to the State, select and appoint competent and qualified persons to lecture in each of the districts named in section 1 of this act, for the purpose of encouraging and improving practical horticulture, and of imparting instruction in the best methods of treating the diseases of fruits and fruit trees, cleansing orchards, and exterminating orchard pests.

SEC. 5. The office of the board shall be located at such a place as a majority thereof may determine. It shall be kept open to the public, subject to the rules of the board, every day excepting Sunday and legal holidays, and shall be in charge of the secretary during the absence of the board.

SEC. 6. For the purpose of preventing the spread of contagious diseases among fruit and fruit trees, and for the prevention, treatment, cure, and extirpation of fruit pests and the diseases of fruit and fruit trees, and for the disinfection of grafts, scions, or orchard débris, empty fruit boxes or packages, or other suspected material or transportable articles dangerous to orchards, fruits, and fruit trees, said board may suggest regulations for the inspections and disinfections thereof, which regulations shall be circulated in printed form by the board among the fruit growers and fruit dealers of the State, and shall be published at least ten days in two daily newspapers of general circulation in the State, and shall be posted in three conspicuous places in each county in the State, one of which shall be at the county court-house thereof.

SEC. 7. The said board shall elect from their own number, or appoint from without their number, to hold office at the pleasure of the board, a competent person especially qualified by practical experience in horticulture, who shall be known as "inspector of fruit pests." It shall be the duty of said inspector to visit the horticultural districts of the State to see that all regulations of said board to prevent the spread of fruit pests and diseases of trees and plants injurious to the horticultural interests of the State and for disinfection of fruits, trees, plants, grafts, scions, orchard débris, empty fruit boxes and packages, and other material are made known to the people of the State. He shall, whenever required and under the direction of the board, and may also upon his own motion and upon complaint of interested parties, inspect orchards, nurseries, and other places suspected or believed to be infested with fruit pests or infected with contagious diseases injurious to trees, plants, or fruits, and he shall report the facts to said board. The inspector shall from time to time, and whenever required by said board, report to it such information as he may secure from observation, experience, and otherwise, as to the best methods of diminishing and eradicating fruit pests and diseases from orchards, and also suggestions in practical horticulture, the adaptation of products to soil, climate, and markets, and such other facts and information as shall be calculated to improve the horticultural interests of the State.

SEC. 8.<sup>2</sup> It shall be the duty of the board, whenever they shall be informed by complaint of any person having an orchard or nursery of trees, or any fruit packing house, storeroom, sales room, or any other place within the State that is infested with any noxious insect liable to spread contagion dangerous to the fruit interests of the State, to cause an inspection to be made of the said premises, and if found infected they shall notify the owner or owners, or the person or persons in charge or possession of said trees or places infected with insects or their eggs or larvæ, and shall require such person or persons to make application, within a certain time to be specified, of such treatment for the purpose of destroying them as said board of horticulture shall prescribe. Said notice may be served upon the person or persons owning or having charge or possession of such infested trees or places or articles as

<sup>1</sup> Statutes of Oregon, 1889, pp. 126-130.

<sup>2</sup>Section 8 was probably designed to cover fungous diseases, but does not, and consequently there is no penalty for violation of one-half of this law.

aforesaid by any member of the board or by any person deputed by the said board for that purpose, or they may be served in the same manner as a summons in a civil action. If the owner or the owners, or the person or persons in charge or possession of any orchard or nursery, or trees or places or articles infested with the said insects, or any of them, or their larvæ or eggs, after having been notified as above to make application of treatment as directed, shall fail, neglect, or refuse so to do, he or they shall be deemed guilty of maintaining a public nuisance, and any such orchards, nurseries, trees, or places, or articles thus infested shall be adjudged and the same is hereby declared a public nuisance, and may be proceeded against as such. If found guilty, the court shall direct the aforesaid board of horticulture to abate the nuisance. The expenses thus incurred shall be a lien upon the real property of the defendant.

SEC. 9. It shall be the duty of the secretary to attend all meetings of the board and to procure records of the proceedings and correspondence, to collect books, pamphlets, periodicals, and other documents containing valuable information relating to horticulture, and to preserve the same; to collect statistics and other information showing the actual condition and progress of horticulture in this State and elsewhere; to correspond with agricultural and horticultural societies, colleges and schools of agriculture and horticulture, and other persons and bodies as he may be directed by the board, and prepare, as required by the board, reports for publication; he shall also act as assistant to and obey the directions of the inspector of fruit pests, under the direction of the board, in the exercise of the duties of his office, and shall be paid for his services as said secretary and assistant inspector a salary of not to exceed one hundred dollars per month.

SEC. 10. The inspector of fruit pests shall receive as compensation for his services, when actually engaged in the duties of his office, a sum not to exceed five dollars per day, and his actual traveling expenses shall be allowed when so engaged.

SEC. 15. Inasmuch as there is great danger to the fruit and horticultural interests of the State from pests and other causes, and no means exist whereby they can be remedied, this act shall take effect from and after its approval by the governor.

Approved, February 25, 1889.

In 1891 sections 6 and 8 were amended as follows:<sup>1</sup>

SEC. 6. For the purpose of preventing the spread of contagious diseases among fruit and fruit trees, and for the prevention, treatment, cure, and extirpation of fruit pests and the diseases of fruit and fruit trees, and for the disinfection of grafts, scions, or orchard débris, empty fruit boxes or packages, or other suspected material or transportable articles dangerous to orchards, fruits, and fruit trees, said board may suggest regulations for the inspection and disinfection thereof, which regulations shall be circulated in printed form by the board among the fruit growers and fruit dealers of the State, and it shall be the right and duty of any member or officer or appointee of said board to inspect any fruit or fruit packages, or any trees, plants, cuttings, grafts, or scions that are untrue to name or are imported or brought into this State, known or believed to be infested by any insect or insects, or the germs thereof, or by eggs, larvæ, or pupæ thereof, or with any contagious disease injurious to fruit or fruit trees; and any person who shall sell, give away, distribute, or transport, or offer to sell, give away, distribute, or transport any such fruit, fruit packages, trees, plants, cuttings, grafts, or scions, found upon such inspection or known to be infested as aforesaid, before the same are disinfected, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided for in section 8 of this act; and any person shipping any fruit trees, scions, cuttings, or plants from any orchard, nursery, or other place where they were grown or produced, shall place upon or securely attach to each box, package, or parcel containing such fruit trees, scions, cuttings or plants, a distinct mark

<sup>1</sup> The Laws of Oregon and the Resolutions and Memorials of the Sixteenth Regular Session of the Legislative Assembly thereof, 1891, pp. 175, 176.

or label showing the name of the owner and shipper of the same, and of the locality where produced; and any person who shall ship, transport, or remove, or cause to be shipped, transported, or removed, any fruit trees, scions, cuttings, or plants found upon inspection as aforesaid or known to be infected as specified in this act, or which are untrue to name, before the same is disinfected to the satisfaction of some member or officer or appointee of the board, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined as provided for in section 8 of this act; and it shall be a misdemeanor punishable as aforesaid for any person to ship or transport from one locality to another any fruit trees, scions, cuttings, or plants that have been disinfected, without a stamp or label on the box, package, or wrapping thereof, showing such disinfection; and any person who shall use any false or counterfeit stamp or label as aforesaid shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined as provided in section 8 of this act; and the board shall have power to make such temporary appointments as may be necessary to carry out the provisions of this section.

SEC. 8. Whenever complaint is made to any member of the board that any person has an orchard, trees, or nursery of trees, or a fruit packing house, storeroom, sales room, or any other place in this State, infected with any noxious insects, or the eggs or larvæ of any such insects, injurious or that may become injurious to the fruit interests of the State, such member shall inspect, or cause to be inspected, the premises or property to which such complaint relates; and if the same is found to be infected as aforesaid, such member shall notify in writing the person having charge of such premises or property to appear before him at a certain time and place, to be specified in such notice, to be heard in reference to the infection of such premises or property as aforesaid; and if such member, after hearing the person in charge of such premises or property, shall be of the opinion that such premises or property, or any of the same, is infected as aforesaid, he shall notify in writing the person in charge of the same, within a time to be prescribed in such notice, to treat and disinfect such premises or property in the manner prescribed in such notice; and if the person so notified shall neglect or refuse to treat and disinfect said premises or property in a manner and within the time prescribed in such notice, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five nor more than one hundred dollars; and if it appears upon the trial that any orchard, trees, nurseries, buildings, or other structures, premises, or property is infected as aforesaid, the court shall declare whatsoever of the same is so infected a nuisance, and shall order it to be abated, or may make any other order necessary to prevent its continuance; and it shall be the duty of the board, or some member thereof, to execute such order; and the costs and disbursements of the prosecution shall be adjudged against the party convicted as aforesaid.

On file in the office of the secretary of state, February 21, 1891.

## LAWS OF PENNSYLVANIA.

AN ACT to prevent the spread of the disease in peach trees known as the yellows.

*Be it enacted by the legislature of the State of Pennsylvania:*

SECTION 1. That it shall be unlawful for anyone to knowingly or willfully keep any peach, almond, apricot, or nectarine tree infected with the contagious disease known as the yellows, or to offer for sale or shipment or to sell or ship to others any of the fruit thereof; both tree and fruit so infected shall be subject to destruction as public nuisances as hereinafter provided, and no damages shall be awarded in any court in this State for entering upon premises and destroying such diseased trees and fruit, if done in accordance with the provisions of this act; and it shall be the duty of every person, as soon as he becomes aware of the existence of such disease in any tree or fruit owned by him to forthwith destroy or cause the same to be destroyed.

SEC. 2. In any township, borough, or city of this State in which such contagious disease exists, or in which there is good reason to believe it exists, or danger may be justly apprehended of its introduction, as soon as such information becomes known to any supervisor of such township, or to any highway or street commissioner of such borough or city, it shall be the duty of said supervisor, highway or street commissioner to appoint forthwith three competent freeholders of said township, borough, or city as commissioners, who shall hold office during the pleasure of said supervisor or highway or street commissioner, and such order of appointment and of revocation shall be entered at large upon the records of such township, borough, or city.

SEC. 3. It shall be the duty of said commissioners, within ten days after appointment as aforesaid, to file their acceptance of the same with the clerk of said township, borough, or city, and said clerk shall be ex officio clerk of said board of commissioners, and he shall keep a correct record of the proceedings of said board in a book to be provided for the purpose, and shall file and preserve all papers pertaining to the duties and actions of said commissioners, or either of them, which shall be a part of the records of said township, borough, or city.

SEC. 4. It shall be the duty of the commissioners or any one of them, upon or without complaint, whenever it comes to their notice that the disease known as yellows exists or is supposed to exist within the limits of their township, borough, or city, to proceed without delay to examine the trees or fruit supposed to be infected, and if the disease is found to exist a distinguishing mark shall be placed upon the diseased trees and the owner notified personally or by a written notice left at his usual place of residence, or, if the owner be a nonresident, by leaving the notice with the person in charge of the tree or fruit, or the person in whose possession said trees or fruit may be. The notice shall contain a simple statement of the facts as found to exist, with an order to effectually remove and destroy, by fire or otherwise, the trees so marked and designated, within ten days, Sundays excepted, from the date of the service of the notice, and in case of fruit so infected such notice shall require the person in whose possession or control it is found to immediately destroy the same or cause it to be done. Said notice and order shall be signed by the full board of commissioners.

SEC. 5. Whenever any person shall refuse or neglect to comply with the order to remove and destroy the trees marked by the commissioners as aforesaid it shall become the duty of the commissioners to cause said trees to be removed and destroyed forthwith, employing all necessary aid for that purpose; the expense of such removal and destruction of trees to be a charge against the township, borough, or city, and for the purpose of said removal and destruction the said commissioners, their agents and workmen, shall have the right and power to enter upon any and all premises within their township, borough, or city.

SEC. 6. If any owner neglects to remove and destroy, or cause to be removed and destroyed as aforesaid, such diseased trees and fruit after such examination and notification, and within the time hereinafter [hereinbefore] specified, such person shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding ten dollars, or by imprisonment in the county jail not exceeding ten days, in the discretion of the court; and any justice of the peace of the township or borough, or any alderman in any city of this Commonwealth where such fruit is sold, shipped, or disposed of as aforesaid shall have jurisdiction thereof.

SEC. 7. The commissioners shall be allowed for services under this act two dollars for each full day and one dollar for each half day for the time actually employed, and other reasonable charges and disbursements hereunder, to be audited, as well as any other charges and disbursements under this act, by the board of township auditors, or the auditors of such borough, or the controller of such city, to be paid to said commissioners as other township, borough, or city accounts are paid. Such fees and all reasonable charges and disbursements of said commissioners in each case

may be recovered by the township, borough, or city, in the name of the supervisor or highway or street commissioner, from the owner of the diseased fruit or trees on account of which such fees, charges, and disbursements became payable or were incurred.

SEC. 8. This act shall take effect immediately upon its approval by the governor. Approved, the 26th day of May, A. D. 1891.

## LAWS OF VIRGINIA.

AN ACT making it unlawful for any person to own, keep, or sell any peach, almond, apricot, or nectarine tree known to be infected with the disease commonly designated as the yellows, and to provide for the appointment of inspectors of orchards.<sup>1</sup>

*Be it enacted by the general assembly of Virginia:*

SECTION 1. That it shall hereafter be unlawful within this State for any person to own, keep, or sell any peach, almond, apricot, or nectarine tree, or the fruit thereof, known to be infected with the communicable disease commonly designated as the "yellows;" that both trees and fruit so infected are hereby declared to be public nuisance, and shall be destroyed as hereinafter provided without compensation to the owner or owners of the same; and it shall be the duty of the owner or owners of any such infected trees or fruit to destroy the same as soon as they become aware of the fact that they are so diseased.

SEC. 2. In any county of this State where the above-mentioned disease exists, or there is reason to believe that it exists, it shall be the duty of the county judge, on the request of ten reputable freeholders, made in writing, to appoint a discreet person of proper experience and qualifications to act as an inspector of orchards, and the said person shall be known as an orchard inspector for that area within the limits prescribed by the county judge; in the same manner the county judge may appoint additional inspectors in different parts of the county, prescribing the area to be inspected by each. All papers relating to the appointment of the above-mentioned inspector and copies of all his official acts shall be placed on a file by the clerk of the county court of said county; and it shall be the duty of said inspector to transmit copies of all his acts, when proceeding under the several sections of this act, to the said county clerk and to the chief inspector hereinafter provided for within ten days after the same are completed; but this act shall not be in force in any county until the board of supervisors thereof shall by a recorded vote accept and adopt the same; and such acceptance and adoption shall not make this act operative unless the county court of such county by an order duly entered, shall ratify and approve the action of the board.

SEC. 3. It shall be the duty of an orchard inspector to file his acceptance with the clerk of the county court within and for which he has been appointed within five days after appointment, and to at once enter upon his duties by thoroughly inspecting all orchards known or supposed to be diseased with the "yellows," and to mark such trees as are found to be so diseased for destruction; and the said orchard inspector shall not be liable to an action for trespass in carrying out the provisions of this section. It shall also be his duty to keep an accurate record of the number of trees inspected and the number condemned in each orchard, which record he shall finally transmit to the chief inspector as further provided. In case of nonacceptance, resignation, or death of any person appointed as inspector or removed under this act the place shall be filled by reappointment as provided in section 2 of this act.

SEC. 4. On the completion of the inspection of any premises, and finding trees or fruit infected with the above-mentioned disease, the inspector shall at once notify the owner of the fact in writing, after the usual manner of legal notice, stating the number of diseased trees, and designating the manner in which they are marked: *Provided*, That in this act a notice served on a tenant shall be considered legal and

<sup>1</sup> Public Acts and Joint Resolutions, session of 1889-90, Chapter 189, pp. 145-148.

sufficient. The said owner or tenant shall, in fifteen days after date of the said notice, dig up and destroy, root and branch, by burning, all trees marked for destruction and specified in the above notice. Fruit condemned under this act shall also be destroyed by burning or burying.

SEC. 5. If any person, after due notice as provided for in this act, neglect or refuse to destroy within the specified time trees or fruit properly condemned, the inspector shall have power to enter upon any and all premises, with such force as shall be necessary, and destroy all property condemned as hereinbefore provided for, and the cost of performing this duty shall be paid as hereinafter provided for. Any person who shall believe that his trees or fruit have been condemned without sufficient evidence may appeal from the decision of the inspector, in which event he shall serve notice of such appeal on the inspector within three days after receiving notice of condemnation of trees or fruit. The inspector on receiving such notice shall at once report the same to the county judge, who shall immediately appoint two assistant inspectors to act with the inspector, and upon their verdict the confirmation or reversal of the orchard inspector's order shall rest. This joint commission shall meet and act not later than the last day specified in the original notice of condemnation; it may extend the time for the destruction of trees or fruit.

SEC. 6. In case an inspector shall at any time become derelict or neglectful of his duties, or act in a manner prejudicial to the interest of any citizen, he may be charged with misconduct, which charge shall specify in writing the nature of his misdemeanor or neglect of duty. On presentation of such a charge to the judge of the county court, he shall cite the said inspector to appear before him on a specified day within the next thirty days, when a fair hearing shall be given, and if the charges are sustained, the said inspector shall be removed from office and another person appointed in his stead. The accused shall always be furnished with a copy of the charges.

SEC. 7. Any person appointed as an orchard inspector under this act shall hold his office until the expiration of the following thirteenth day of November, when the office shall lapse until such time as it is revived by request, as provided for in section 2 of this act. Any person appointed assistant inspector under this act shall hold his office only during the hearing of the special case for which he was appointed.

SEC. 8. The pay of any inspector shall be at the rate of one and a half dollars per day for the time actually engaged in the work of inspection, which sum shall be paid out of the incidental funds in the county treasury, after his accounts have been examined and found correct by the county board of supervisors: *Provided*, That no inspector shall be paid unless it be well established that the yellows disease prevails in his area of inspection. When any inspector shall be compelled to personally destroy, or cause to be destroyed, diseased trees or fruit, as provided for in this act, all necessary expenses incurred by him in so doing shall be collected by him from the owner of the premises on which the diseased trees be found and destroyed. The inspector shall first present a bill for said necessary expenses, which, if not paid, he may proceed to collect the amount of bill by proceedings before a justice of the peace: *And provided further*, That in no county shall the payment made out of the county funds to execute the provisions of this act exceed in any one year the sum of thirty dollars.

SEC. 9. This act hereby creates the office of chief inspector of orchards for the State, which office shall be vested in the commissioner of agriculture, who shall serve without pay for duties performed under this act. It shall be the duty of this officer to prepare blank forms for the use of county inspectors and for other purposes within the scope of this act, which forms, upon the approval of the governor, shall be printed by the public printer in such number as may be necessary for the work required; further, he shall at once, on the appointment of an orchard inspector, furnish him with such forms and instructions as he may need for the proper prosecution of his duties, and shall at all times answer inquiries from the county inspectors or any individual interested, pass upon questions and material submitted to him for



answer or examination relating to the yellows, and do all in his power to promote a correct knowledge among growers concerning this disease. He shall also keep an accurate record of the work of the inspectors in the several counties, and furnish annually, on or before the first day of December of each year, a condensed statement of the work done by county inspectors, the progress of the disease, the effect or noneffect of this law in checking the spread of the same, and such other matters of interest relating thereto as may be of importance.

SEC. 10. Any person who shall fail or refuse to obey the order of an inspector to destroy trees or fruit, as provided for in this act, shall be guilty of a misdemeanor, and on conviction thereof in a justice court shall be fined five dollars for each day which has elapsed since the expiration of the order of condemnation: *Provided*, That no fine shall exceed twenty-five dollars for a first offense. In all cases where a term of days is specified in this act Sunday shall not be reckoned in the count.

SEC. 11. It shall be unlawful for any person, firm, association of persons, or corporation, or their agents, to bring, ship, or consign into this State, for the purpose of selling, or for any other purpose, any peach trees infected with a disease known as peach yellows, or to sell the same so infected in this State.

SEC. 12. Any person, association of persons, firm, or agent violating any provision of section 11 of this act shall be fined for each offense fifty dollars.

SEC. 13. This act shall be in force from and after its passage.

Approved, March 4, 1890.

## LAWS OF WASHINGTON.

February 16, 1891, the State of Washington passed an act creating a State board of horticulture, the following sections of which relate to plant diseases:<sup>1</sup>

SEC. 4. The board may receive, manage, use, and hold donations and bequests of money and property for promoting the objects of its formation. It shall meet on the second Monday of April and October of each year, and as much oftener as it may deem expedient, for the consultation on and for the adoption of those measures that will best promote the horticultural industries of the State. It may, but without expense to the State, select and appoint competent and qualified persons to lecture in each of the districts named in section 1, for the purpose of encouraging and improving practical horticulture, and imparting instructions in the best methods of treating the diseases of fruits and fruit trees, cleansing orchards, and exterminating orchard pests.

SEC. 6. For the purpose of preventing the spread of contagious diseases among fruit and fruit trees, and for the prevention, treatment, cure, and extirpation of fruit pests and the diseases of fruits and fruit trees, and for the disinfection of grafts, scions, or orchard débris, empty fruit boxes or packages, or other suspected material or transportable articles dangerous to orchards, fruits, and fruit trees, said board may suggest regulations for the inspection and disinfection thereof, which regulations shall be circulated in printed form, by the board, among the fruit growers and fruit dealers of the State, and shall be published at least ten days in two daily papers of general circulation in the State, and shall be posted in three conspicuous places in each county in the State, one of which shall be at the county court-house thereof.

SEC. 7. The said board shall elect from their own number or appoint from without their number, to hold office at the pleasure of the board, a competent person especially qualified by practical experience in horticulture, who shall be known as "inspector of fruit pests." It shall be the duty of said inspector to visit horticultural districts of the State, to see that all the regulations of said board to prevent

<sup>1</sup> Session Laws of the State of Washington, session of 1891. Olympia, 1891, pp. 13-17.

the spread of fruit pests and diseases of trees and plants injurious to the horticultural interests of the State, and for the disinfection of fruits, trees, plants, grafts, scions, orchard débris, empty fruit boxes and packages, and other material, be made known to the people of the State. He shall, whenever required, and under the direction of the board, and may also upon his own motion, and complaint of interested parties, inspect orchards, nurseries, and other places suspected or believed to be infected with fruit pests, or infected with contagious diseases injurious to trees, plants, or fruits, and he shall report the facts to said board. The inspector shall, from time to time, and whenever required by said board, report to it such information as he may secure from observation, experience, and otherwise, as to the best method of diminishing and eradicating fruit pests and diseases from orchards, and also suggestions in practical horticulture, the adaptation of produce to soil, climate, and markets, and such other facts and information as shall be calculated to improve the horticultural interests of the State.

SEC. 8. Wherever a complaint is made to any member of the board that any person has an orchard, trees, or nursery of trees, or a fruit packing house, storeroom, sales room, or any other place in this State infected with any noxious insects, or the eggs or larvæ of any such insects, or that any packages of trees, plants, or fruit are in transit to this State, or are in this State about to be disseminated, which are known or suspected to be from localities that are infected with any disease or pests injurious or that may become injurious to the fruit interests of the State, such member shall inspect, or cause to be inspected, the premises or property to which such complaint relates, and if the same is found to be infected as aforesaid, such member shall notify in writing the person having charge of such premises and property to appear before him at such time and place as specified in such notice, to be heard in reference to the infection of such premises or property aforesaid, and if such member, after hearing the person in charge of such premises or property, shall be of the opinion that such premises or property, or any of the same, is infected as aforesaid, he shall notify in writing the person in charge of the same, within a time to be prescribed in such notice, to treat and disinfect said premises or property in the manner prescribed in such notice, and if the person so notified shall neglect or refuse to treat and disinfect said premises or property, in the manner and within the time prescribed in said notice, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars; and if it appears on the trial that any orchard, trees, nursery, building, or any other structures, premises, or property in charge of the defendant referred to in said notice, or any part of such structures, premises, or property is infested or infected as aforesaid, the court shall declare whatsoever of the same is so infected a nuisance, and shall order it to be abated, or may make any other order necessary to prevent its continuance, and it shall be the duty of the board, or some member thereof, to execute such order, and the costs and disbursements of the prosecution shall be adjudged against the party convicted as aforesaid.

SEC. 9. It shall be the duty of the secretary to attend all meetings of the board and to procure records of the proceedings and correspondence; to collect books, pamphlets, periodicals, and other documents containing valuable information relating to horticulture, and to preserve the same; to collect statistics and other information showing the actual conditions and progress of horticulture in this State and elsewhere; to correspond with agricultural and horticultural societies, colleges, and schools of agriculture and horticulture, and other persons and bodies as he may be directed by the board, and prepare, as required by the board, reports for publication; he shall also act as assistant to and obey the directions of the inspector of fruit pests, under the direction of the board, in the exercise of the duties of his office, and shall be paid for his services as said secretary and assistant inspector a salary of not to exceed one hundred dollars per month, and his mileage actually paid out shall be allowed when acting as assistant to the inspector of fruit pests.

SEC. 10. The inspector of fruit pests shall receive as compensation for his services when actually engaged in the duties of his office, a sum not to exceed five dollars per day, and his mileage actually paid out shall be allowed when so engaged.

SEC. 11. The board shall biennially, in the month of January, report to the legislature a statement of its doings, with a copy of the treasurer's accounts for two years preceding the session thereof, and abstracts of reports of the inspector of fruit pests and of the secretary. The members of the board shall receive a compensation for their services, their mileage actually paid out when attending the meetings of the board, and shall be allowed five dollars a day for time actually employed.

SEC. 15. Inasmuch as there is great danger to the fruit and horticultural interests of the State from pests and other causes, and no means exists whereby they can be remedied, therefore an emergency exists, and this act shall take effect from and after its approval by the governor.

Approved February 16, 1891.

## LAWS OF ONTARIO, CANADA.

In 1881 the legislative assembly of the Province of Ontario passed the following yellows law:<sup>1</sup>

AN ACT to prevent the spread of yellows among peach, nectarine, and other trees.

*Her Majesty, by and with the advice and consent of the legislative assembly of the Province of Ontario, enacts as follows:*

1. It shall not be lawful for any person to keep any peach, nectarine, or other trees infected with the contagious disease known as the yellows, or to offer for sale or shipment, or to sell or ship any of the fruit thereof; and it shall be the duty of every person, so soon as he becomes aware of the existence of the said disease in any trees or fruit owned by him, to burn the same forthwith.

2. When the said disease exists, or there is good reason to believe it exists, or when there is good reason to apprehend its introduction, any five or more freeholders residing in the same or an adjoining municipality may petition the council thereof to appoint an inspector to prevent the spread or introduction of the said disease.

3. On receipt of such petition it shall be the duty of the clerk of the municipality to call a meeting of the council within ten days thereafter for the consideration of the same, and it shall be the duty of the said council, if satisfied of the truth of the facts stated in the petition, to appoint an inspector for the purpose of carrying out the provisions of this act and to provide for his remuneration.

4. It shall be the duty of the inspector to examine the peach and nectarine orchards of the municipality once between the middle and end of July and once between the middle and end of August every year, and he shall keep a correct record of the condition of each orchard and of the time spent in the performance of his duty, which time shall not exceed six days during each period of inspection, and shall, after each such inspection, file the said record with the clerk of the municipality.

5. In case written complaint is made to the inspector that the said disease exists, or that there is good reason to believe it exists, within the municipality in any locality described in such complaint with reasonable certainty, or that infected trees or fruit are offered for sale or shipment, or have been imported into the municipality by any person named, such inspector shall, without unnecessary delay, proceed to examine the trees or fruit so designated.

6. The inspector, if satisfied that the disease has actually infected any tree or fruit, shall affix a distinguishing mark upon each tree so infected, and shall immediately give notice in writing to the owner or occupier of the land whereon the said infected trees are growing, requiring him, within seven days from the receipt of said notice,

<sup>1</sup> Statutes of the Province of Ontario, Canada, 44th Victoria, 1881. Toronto, 1881, Chapter XXVIII, p. 283.

to burn the trees so marked as hereinbefore directed; and in case of fruit so infected such notice shall require the person in whose possession it is found to immediately destroy the same.

7. In case any owner or occupier refuses or neglects to destroy such diseased trees or fruit after such examination and notification he shall, upon conviction, be liable to a fine of not less than five dollars nor more than twenty dollars, for every such offense.

8. Every offense against the provisions of this act shall be punished, and the penalty imposed for each offense shall be recovered and levied, on summary conviction, before any justice of the peace, and all fines collected shall be paid as follows: One-half to the person laying the information or complaint, and the residue to the treasurer of the municipality in which the offense is committed, for the use of the municipality.

Assented to, March 4, 1881.

This act was repealed in 1884, the following taking its place:<sup>1</sup>

AN ACT to prevent the spread of noxious weeds and of diseases affecting fruit trees.

1. [This section repeals former acts.]

2. It shall be the duty of every owner of land, or the occupier thereof, if the owner is not resident within the local municipality wherein the same is situated (1) to cut down or destroy all the Canada thistles, ox-eye daisies, wild oats, ragweed, and burdock growing on his land to which this act may be extended by by-law of the municipality, so often each and every year as is sufficient to prevent the ripening of their seed; (2) to cut out and burn all the black knot found on plum or cherry trees on his land, so often each and every year as it shall appear on such trees; and (3) to cut down and burn any peach, nectarine, or other trees on his land infected with the disease known as the yellows, and to destroy all the fruit of trees so infected.

3. The council of any city, town, township, or incorporated village, may by by-laws extend the operation of this act to any other weed or weeds, or to any other disease of fruit trees or fruit which they declare to be noxious to husbandry or gardening in the municipality; and all the provisions of this act shall apply to such noxious weeds and diseases as if the same were herein enumerated.

Any such council may, and upon a petition of fifty or more ratepayers shall, appoint at least one inspector to enforce the provisions of this act in the municipality, and fix the amount of remuneration, fees, or charge he is to receive for the performance of his duties; and in case a vacancy shall occur in the office of inspector, it shall be the duty of the council to fill the same forthwith.<sup>2</sup>

[Paragraph 3 provides that the council of any township may exempt waste or unoccupied lands.]

[Sections 4, 5, 6, 7, and 8 relate entirely to weeds.]

9. If written complaint be made to the inspector that yellows or black knot exist within the municipality, or in any locality described in such complaint with reasonable certainty, he shall proceed to examine the fruit trees in such locality, and if satisfied of the presence of either disease he shall immediately give notice in writing to the owner or occupant of the land whereon the affected trees are growing, requiring him within five days from the receipt of said notice to deal with such trees in the manner provided by section 2 of this act.

10. Any owner or occupant of land who refuses or neglects to cut down or destroy any of the said noxious weeds, after notice given by the inspector as provided by

<sup>1</sup>Statutes of Ontario, Canada, 47th Victoria, 1884, Chapter XXXVII, p. 119.

<sup>2</sup>In 1890 this section was amended by the following addition:

4. The council may pass a by-law dividing the municipality into such sections or divisions as may be necessary for the carrying out of this act, and may appoint inspectors for such divisions, whose duties and powers shall in all respects be the same as that of the township inspector. (53rd Victoria, Chapter LIX, p. 140.)

section 4, or who knowingly suffers any of the said noxious weeds to grow thereon and the seed to ripen so as to cause or endanger the spread thereof, or who suffers any black knot to remain on plum or cherry trees, or keeps any peach, nectarine, or other trees infected with yellows, or the fruit of trees so infected, shall, upon conviction, be liable to a fine of not less than five or more than twenty dollars for every such offense.

[Paragraph 2 relates to weeds.]

Any person who knowingly offers for sale or shipment, or sells or ships the fruit of trees infected with yellows shall, upon conviction, be liable to a fine of not less than five nor more than twenty dollars.

Every inspector, overseer of highways, or other officer who neglects to discharge the duties imposed on him by this act shall, upon conviction, be liable to a fine of not less than ten nor more than twenty dollars.

11. Every offense against the provisions of this act shall be punished and the penalty imposed for each offense shall be recovered and levied, on summary conviction, before any justice of the peace; and all fines imposed shall be paid to the treasurer of the municipality in which the offense is committed, for the use of the municipality.

12. The council of every municipality in Ontario shall require its inspector, overseer of highways, and other officers to faithfully discharge all their duties under this act.

13. [This section relates to weeds.]

Assented to, March 25, 1884.

In 1893 the following additional legislation was enacted:

AN ACT for the better prevention of certain diseases affecting fruit trees.<sup>1</sup>

*Her Majesty, by and with the advice and consent of the legislative assembly of the Province of Ontario, enacts as follows:*

1. This act may be cited as the yellows and black knot act, 1893.

2. The act to prevent the spread of noxious weeds and of diseases affecting fruit trees and the acts passed in amendment thereof in the fifty-third and fifty-fourth years of Her Majesty's reign are repealed so far as the said acts relate to the diseases known as "yellows" and "black knot" in certain fruit trees.

3. It shall be the duty of every occupant of land, or if the land be unoccupied it shall be the duty of the owner, (1) to cut out and burn all black knot found on plum or cherry trees on his land so often each year as it shall appear on such trees; and (2) to cut down and burn any peach, nectarine, or other trees on his land infected with the disease known as the yellows, and to destroy all the fruit of trees so infected.

4. (1) The council of any city, town, township, or incorporated village may, and upon a petition of fifteen or more ratepayers shall, by by-law, appoint at least one inspector to enforce the provisions of the act in the municipality, and fix the amount of remuneration, fees, or charges he is to receive for the performance of his duties; and in case a vacancy shall occur in the office of inspector it shall be the duty of the council to fill the same forthwith, and the council (in any municipality where peaches are grown) shall also, by by-law, appoint three or more persons resident in the municipality, who shall constitute a board of fruit-tree inspection, to which appeals shall lie from the order or decision of the said inspector. (2) The council may pass a by-law dividing the municipality into such sections or divisions as may be necessary for the carrying out of this act, and may appoint inspectors for such divisions whose duties and powers shall in all respects be the same as that of the township inspector.

5. If written complaint be made to the inspector that yellows or black knot exists within the municipality, in any locality described in such complaint with reasonable certainty, he shall proceed to examine the fruit trees in such locality, and if satisfied of the presence of either disease he shall immediately give notice in writing to

<sup>1</sup> Statutes of Ontario, Canada, 56th Victoria, 1893, Chapter XLII.

the owner or occupant of the land whereon the affected trees are growing, requiring him within ten days from the receipt of the notice to deal with such trees in the manner provided by section 3 of this act.

6. (1) It shall be the duty of every inspector appointed under this act by personal inspection to ascertain from time to time whether either of the diseases mentioned in this act exists in the municipality, and to report thereon at least once a year to the municipal council, and wherever he is satisfied of the presence of either disease he shall proceed in the same manner as in case of a complaint made under section 5 of this act. (2) A copy of the annual report of the inspector shall be forwarded by the clerk of the municipality to the minister of agriculture.

7. (1) An owner or occupant to whom notice regarding yellows has been given by the inspector, under section 5 of this act, may appeal therefrom, within the ten days limited therein, to the board of fruit-tree inspection of the municipality. (2) The owner or occupant so appealing shall, within the said ten days, give notice in writing to the inspector that he requires an examination of the trees in respect of which complaint is made by the board of fruit-tree inspection, and shall name the day and hour at which the examination will take place. (3) The person appealing shall also, within the said ten days, give notice in writing to three members of the said board that he requires the attendance of the members notified at the time and place named for the examination of the said fruit trees, and the date so fixed shall be not less than three days after the service of notice on the inspector and on the last member of the board so served. (4) At the day and hour named in the notice of appeal the members notified shall attend and examine the trees in question and determine whether or not the notice given by the inspector to the owner or occupant, under section 5 of this act, was rightly given, and the decision of the said board or of a majority of the members present shall be final. (5) The decision of the board shall be in writing, signed by the members agreeing thereto, and a duplicate thereof shall be given to the person appealing and to the inspector, and pending such decision all proceedings against the owner or occupant appealing shall be stayed, and if the said board decides that the notice given by the inspector was wrongly given and was unnecessary no further proceedings shall be taken thereon. (6) Each member of the said board shall be entitled to receive two dollars for every examination made by him, by the owner or occupant appealing if the board decides that the notice of the inspector was rightly given, or by the municipality if the board decides that such notice was wrongly given, and the amount of said fees shall be stated in the written decision of the board, and shall be a debt due to the board from the party so found liable, recoverable in any division court having jurisdiction.

9. (1) Any owner or occupant of land who, after notice given by the inspector, as provided by section 5, suffers any black knot to remain on plum or cherry trees, or keeps any peach, nectarine, or other trees infected with yellows or the fruit of trees so infected, shall, upon conviction, be liable to a fine of not less than five dollars and not more than twenty dollars for every such offense. (2) Any person who knowingly offers for sale or shipment, or sells or ships the fruit of trees infected with yellows shall, upon conviction, be liable to a fine of not less than five dollars nor more than twenty dollars. (3) Every inspector who, after receiving the written complaint required by section 5 of\* this act, refuses or neglects to discharge the duties imposed on him by this act, shall, upon conviction, be liable to a fine of not less than ten dollars nor more than twenty dollars.

10. Every offense against the provisions of this act shall be punished, and the penalty imposed for each offense shall be recovered and levied, on summary conviction, before any justice of the peace, and one-half of every fine imposed shall be paid to the inspector or other person laying the information, and one-half to the treasurer of the municipality in which the offense is committed, for the use of the municipality.

11. The council of every municipality shall require its inspector or inspectors to faithfully discharge all their duties under this act.

Assented to, May 27, 1893.

## LAWS OF BRITISH COLUMBIA.

AN ACT to consolidate and amend the acts respecting the provincial board of horticulture (21st March, 1894), [Short title, "Hort. board act, 1894"]<sup>1</sup>.

The following sections of this act relate to diseases of plants:

SEC. 5. The board shall receive, manage, use, and hold donations and bequests of money and property for promoting the objects of its formation; it shall meet in the months of April and October of each year, and as much oftener as it may deem expedient, for the consultation on and for the adoption of those measures that will best promote the horticultural industry of the Province; it may, but without expense to the Province, select and appoint competent and qualified persons to lecture in each of the districts named in section 2 of this act, for the purpose of encouraging and improving practical horticulture, and imparting instruction in the best methods of treating diseases of fruits and fruit trees, cleaning orchards, and exterminating orchard pests.

SEC. 7. For the purpose of preventing the spread of contagious diseases in orchards and gardens and among fruits and fruit trees, and for the prevention, treatment, cure, and extirpation of fruit pests and the diseases of fruits and fruit trees, and for the disinfection of grafts, scions, or orchard débris, empty fruit boxes or packages, and other suspected material or transportable articles dangerous to orchards, fruits, and fruit trees, said board may make regulations for the inspection and disinfection or destruction thereof, or of nonfruit-bearing trees or shrubs which may carry contagion, and also for requiring all cases of contagious diseases or fruit pests as aforesaid, to be reported to the board, which regulations shall be circulated in printed form by the board among the fruit growers and fruit dealers of the Province, and shall be published in the British Columbia Gazette, and, at the discretion of the board, in papers of general circulation in the Province, and shall be posted in three conspicuous places in each district, one of which shall be a court-house therein; and every such regulation, when published in the British Columbia Gazette, shall, so far as the same shall not have been in like manner repealed or varied, be deemed to be and have the force of law, and be so recognized in all courts in the Province. (a) In and by such regulations the board may fix and impose any fine or penalties for the enforcement of the provisions thereof not exceeding in amount the fines and penalties hereinafter provided in case of the evasion of any of the provisions of this act. (b) All fines and penalties imposed by any such regulations shall be recovered with costs upon summary conviction before any justice of the peace, in accordance with the provisions of the summary convictions act, 1889, and when collected shall be paid over to the treasurer of the board for the purposes of this act.

SEC. 8. The lieutenant-governor in council shall appoint, from the number of the board, or from without their number, to hold office at the pleasure of the lieutenant-governor in council, a competent person, especially qualified by practical experience in horticulture, who shall be known as "inspector of fruit pests." It shall be the duty of said inspector to visit the horticultural districts of the Province to see that all the regulations of said board be made known to the people of the Province, and to enforce this act and the said regulations in the manner therein or in this act prescribed. The inspector shall, from time to time and whenever required by said board, report to it such information as he may secure from observation, experience, and otherwise as to the best method of diminishing and eradicating fruit pests and diseases from orchards and also suggestions as to practical horticulture, the adoption of produce suitable to soil, climate, and markets, and such other facts and information as shall be calculated to advance the horticultural interests of the Province. The inspector shall, from time to time, under the direction of the board, hold meetings throughout

<sup>1</sup> Chapter XX.

the Province in the interests of horticulture, and impart such information and instruction to fruit growers and farmers as may tend to the improvement and expansion of the fruit industry of the Province.

SEC. 9. Any member of the board, their inspector or agent, upon the complaint of interested parties, or upon his own motion, may inspect, or cause to be inspected, fruit, trees, plants, grafts, scions, nursery stock of all description, orchard débris, empty fruit boxes or packages, and other material, orchards, nurseries, and other places suspected or believed to be infested with fruit pests, or infected with contagious diseases injurious to trees, plants, or fruits, and for the purposes thereof he shall have full power and authority to enter in and upon any farm, orchard, nursery, or garden, or any barn, warehouse, storehouse, shop, or other place or building, and if he shall find that the said fruit, trees, plants, grafts, scions, nursery stock of all description, orchard débris, empty fruit boxes or packages, and other material, orchards, nurseries, and other places are infested with fruit pests, or affected with contagious diseases injurious to trees, plants, or fruits, as aforesaid, such member, or inspector, or agent, shall notify in writing the owner or person having charge of such premises or property, within a time to be prescribed in such notice, to treat and disinfect said premises or property in the manner presented in such notice; and such property shall not be removed after the owner or person in charge of the same shall have been notified in writing, as aforesaid, without the written permission of a member of the board or the inspector; and if the person so notified shall neglect or refuse to treat and disinfect the said premises or property, in the manner and within the time prescribed in the said notice, such person shall be deemed guilty of a violation of this act; and if it appears on the trial that any orchard, trees, nursery, building, or any other structures, premises, or property in charge of or belonging to the defendant referred to in said notice, or any part of such structures, premises, or property, is infested or affected as aforesaid, the court may order whatsoever of the same is so infested or affected to be disinfected or destroyed within a time to be mentioned in said order, or may make any other order that it shall deem fit; and if such order be not obeyed within the time therein specified, it shall be the duty of the board, or of some member thereof, or of their inspector or agent, to execute such order, and the costs and disbursements of the prosecution shall be adjudged against the party convicted as aforesaid.

(a) In case, upon inspection as herein provided, the member of the board, inspector, or agent finds any of the premises to be infested with fruit pests or affected with contagious disease, but is unable to take the proceedings herein provided by reason of there being no person in charge, or either the owner or his whereabouts being unknown, he shall be at liberty to cause the same to be disinfected, and the costs and expenses thereon shall be a lien upon the property, which may be enforced by seizure and sale of a sufficient quantity thereof to satisfy the same: *Provided, however,* That no property shall be destroyed under this subsection until an order therefor has been obtained from a justice of the peace, which order any justice is hereby authorized to make upon proof of the urgency of the case or of reasonable efforts having been made to ascertain the owner or person who should be in charge of the infested property.

SEC. 12. The board shall, annually, in the month of January, report to the minister of agriculture a statement of its doings and any regulations made under this act, with a copy of the treasurer's account for the year preceding, and abstracts of the reports of the inspector of fruit pests and of the secretary; and such report shall be laid before the legislative assembly immediately, if it be in session, or, if not, within fifteen days after the opening of the next session thereof. The members of the board shall receive as compensation for their services their mileage actually paid out when attending the meetings of the board, and shall be allowed a sum not exceeding five dollars a day for time actually employed, to be fixed by the lieutenant-governor in council.



SEC. 14. The powers and duties devolving by this act upon the said board and the inspector of fruit pests, in relation to fruit and fruit trees, shall extend to hops and hop plants, for the purpose of preventing the spread of disease among hops and hop plants, and of extirpating any pests affecting the same.

SEC. 15. Every person violating the provisions of this act shall be liable, upon summary conviction before one justice of the peace, to a penalty not exceeding fifty dollars.

Under the preceding law the provincial board of horticulture has formulated a set of rules for the guidance of horticulturists, etc.

Rule 2 defines "pests" so as to include "all fungous diseases."

Various directions are given for disinfection, spraying, etc., and rule 14 affixes the penalty for violation as follows:

#### PENALTIES.

14. Every person violating the provisions of the horticultural board act, 1894, or the rules and regulations adopted by the provincial board of horticulture, is liable, upon summary conviction before a justice of the peace, to a penalty not exceeding fifty dollars for each offense.



