

of his duties under this act, payable out of the county treasury of his county, such compensation as shall be determined by resolution of the board of supervisors of the county before entering into the discharge of his or their duties."

SEC. 6. Section six of said act is hereby amended so as to read as follows:

"SEC. 6. Said county boards of horticultural commissioners shall have power to remove any local inspector who shall fail to perform the duties of his office."

SEC. 7. (Repealed).

SEC. 8. Section eight is hereby amended so as to read as follows, and to be known as section seven of said act, viz:

"SEC. 7. If any member of the county board of horticultural commissioners shall fail to perform the duties of his office, as required by this act, he may be removed from office by the board of supervisors, and the vacancy thus formed shall be filled by appointment by the board of supervisors."

SEC. 9. Section nine of said act is hereby amended so as to read as follows, and to be known as section eight of said act, viz:

"SEC. 8. It shall be the duty of the county board of horticultural commissioners to keep a record of their official doings, and to make a monthly report to the board of supervisors, and the board of supervisors may withhold warrant for salary of said members and inspectors thereof until such time as said report is made."

SEC. 10. A new section is hereby added to said act, to be known as section nine, and to read as follows, viz:

"SEC. 9. All acts or parts of acts in conflict with the provisions of this act are hereby repealed."

SEC. 11. This act shall take effect and be in force from and after its passage.

SUPERIOR COURT DECISION.

Appointment of county boards of horticultural commissioners mandatory.

Hon. John G. Pressley, Judge of the superior court of Sonoma County, on the 19th of June, 1889, rendered the following decision, in which the validity of the act directing the boards of supervisors to establish county boards of horticultural commissioners is sustained:

E. A. Rogers v. The Board of Supervisors of Sonoma County.

John Goss, esq., attorney for plaintiff.

On the 19th of March an act of the legislature was approved, entitled "An act to amend an act entitled 'An act to protect and promote horticultural interests of the State,' approved March 14, 1881."

This act (of March, 1889) provides that "Whenever a petition is presented to the board of supervisors of any county, and signed by twenty-five or more persons who are resident freeholders and possessors of an orchard, or both, stating that certain or all orchards, or nurseries, or trees of any variety, are infested with scale insects that are destructive to trees, and praying that a commission be appointed by them, whose duty it shall be to supervise their destruction as herein provided, the board of supervisors shall, within twenty days thereafter, select three commissioners from the county, to be known as a county board of horticultural commissioners."

The duties of the board so appointed are declared by the act. It appears from the complaint that in accordance with this act, a petition was presented to and filed with the board of supervisors, signed by this plaintiff and twenty-six other persons possessing the qualifications prescribed by the act, praying for the appointment of a county board of horticultural commissioners for Sonoma County, and a demand was made on the supervisors that they carry into effect the provisions of the act and appoint the commissioners.

The board refused to appoint commissioners.

Twenty days have expired since the filing of the petition and the demand for action upon it, and still the board of supervisors refuse and neglect to make any selections or appointment of commissioners.