

No. VIII.

An Act to consolidate and amend the Laws now in force for preventing the extension of the Diseases called the Scab and the Influenza or Catarrh in Sheep and Lambs in the Colony of New South Wales. [30th October, 1846.]

SCAB IN SHEEP.

WHEREAS an Act was passed by the Governor and Legislative Council of New South Wales in the third year of the reign of His late Majesty King William the Fourth intituled "An Act for preventing the extension of the infectious Disease commonly called the Scab in Sheep or Lambs in the Colony of New South Wales" in which it was enacted that it should commence and take effect from the first day of May one thousand eight hundred and thirty-three and be and continue in force for two years And whereas a certain other Act was passed by the said Governor and Council in the fifth year of the reign of His said late Majesty King William the Fourth intituled "An Act to make perpetual an Act intituled 'An Act for preventing the extension of the infectious Disease commonly called the Scab in Sheep or Lambs in the Colony of New South Wales'" whereby the said recited Act was made perpetual And whereas a certain other Act was passed by the said Governor and Council in the sixth year of the reign of His said late Majesty King William the Fourth intituled "An Act to amend and extend the provisions of an Act intituled 'An Act for preventing the extension of the infectious Disease commonly called the Scab in Sheep or Lambs in the Colony of New South Wales'" And whereas a certain other Act was passed by the said Governor and Council in the second year of the reign of Her Majesty Queen Victoria intituled "An Act for preventing the extension of the Disease commonly called the Influenza or Catarrh in Sheep and Lambs in the Colony of New South Wales" in which it was enacted that it should commence and take effect from and after the expiration of ten days from the passing and publication thereof and be and continue in force for two years And whereas a certain other Act was passed by the said Governor and Council in the third year of the reign of Her said Majesty Queen Victoria intituled "An Act to continue for a limited time an Act intituled 'An Act for preventing the extension of the Disease commonly called the Influenza or Catarrh in Sheep and Lambs in the Colony of New South Wales'" whereby the said last recited Act was continued in force until the ninth day of October one thousand eight hundred and forty-two And whereas a certain other Act was passed by the said Governor and Council in the fifth year of the reign of Her said Majesty Queen Victoria intituled "An Act to further continue for a limited time an Act intituled 'An Act for preventing the extension of the Disease commonly called the Influenza or Catarrh in Sheep and Lambs in the Colony of New South Wales'" whereby the said herein recited Act of the second year of the reign of Her said Majesty Queen Victoria was further continued in force until the ninth day of October one thousand eight hundred and forty-four And whereas a certain other Act was passed by the said Governor and Council in the eighth year of the reign of Her said Majesty Queen Victoria intituled "An Act to continue for a further limited time an Act intituled 'An Act for preventing the extension of the Disease commonly called the Influenza or Catarrh in Sheep and Lambs in the Colony of New South Wales'" whereby the said herein recited

Preamble.

3 William IV. No. 5.

5 William IV. No. 19.

6 William IV. No. 10.

2 Victoria No. 12.

3 Victoria No. 27.

5 Victoria No. 22.

8 Victoria No. 3.

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recited Act of the second year of the reign of Her said Majesty Queen Victoria was further continued in force until the ninth day of October one thousand eight hundred and forty-six And whereas a certain other Act was passed by the said Governor and Council in the ninth year of

9 Victoria No. 10 and

“ prevent the travelling of Sheep or Lambs infected with Scab on public roads and thoroughfares and for other purposes” And whereas a certain other Act was passed by the said Governor and Council in the ninth year of the reign of Her said Majesty Queen Victoria intituled “ An Act to provide for the summary jurisdiction of cases under an Act intituled ‘ An Act for preventing the extension of the Disease commonly called the Influenza or Catarrh in Sheep and Lambs in the Colony of New South Wales and to indemnify certain Justices of the said Colony ” And whereas it is expedient to repeal all such of the said herein recited Acts as are now in force and to alter amend and consolidate the laws for preventing the extension of the diseases of sheep Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That all the said herein recited Acts shall be and the same are hereby repealed.

If any person shall turn out infected sheep on land not in his own occupation he shall forfeit not less than five pounds nor more than fifty pounds.

2. And be it enacted That if any person shall turn out keep depasture drive or conduct or permit or suffer to be turned out kept depastured driven or conducted any sheep infected with the disease called the scab or with the disease called the influenza or catarrh within a quarter of a mile of any public road or way used as a public way or upon any land whatsoever not being in the actual possession and occupation of such person he shall forfeit and pay for every such offence any sum not less than five pounds nor more than fifty pounds.

If any person shall drive infected sheep along any public road he shall forfeit not less than five pounds nor more than fifty pounds.

3. And be it enacted That if any person shall drive or conduct or permit or suffer to be driven or conducted any sheep infected as aforesaid upon or along any public road or way used as a public way he shall forfeit and pay for every such offence any sum not less than five pounds nor more than fifty pounds.

Proprietors or persons in charge of infected sheep on land through which a public way passes to give notice to the public under a penalty of not less than five pounds nor more than ten pounds.

4. And be it enacted That whenever any sheep infected as aforesaid shall be turned out kept or depastured upon any land which may be intersected or crossed by any public road or by any way used as a public way it shall be the duty of the proprietor or person in charge of such sheep to cause public notice to be given of such infection by affixing such notice in writing in distinct legible characters at some conspicuous place at each point of entrance of such road or way into the said land and every such notice shall be kept and continued so affixed so long as any sheep infected as aforesaid shall be kept or depastured on such land and if any proprietor or person in charge of any such infected sheep shall wilfully omit or neglect to cause notice to be affixed and continued as aforesaid he shall forfeit and pay for every such offence any sum not less than five pounds nor more than ten pounds.

Any person abandoning infected sheep to forfeit not less than one pound nor more than fifty pounds for each sheep.

5. And be it enacted That if any person shall wilfully set at large and abandon any sheep infected as aforesaid he shall forfeit and pay for every sheep so set at large and abandoned any sum not less than one pound nor more than fifty pounds.

Any person casting infected carcass into stream or water-hole to forfeit not less than one pound nor more than five pounds.

6. And be it enacted That if any person shall cast or cause to be cast into any stream or water-hole the carcass of any sheep which at the time of its death was infected as aforesaid he shall forfeit and pay for every sheep so cast as aforesaid any sum not less than one pound nor more than five pounds.

Justices to have power to order the seizure inspection and detention of

7. And be it enacted That if from any information on oath made before any Justice of the Peace by any proprietor or overseer in charge of sheep or any constable it shall appear to such Justice that there

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there is reasonable cause to suspect and believe that any infected sheep are turned out kept depastured driven or conducted contrary to the provisions of this Act it shall be lawful for such Justice to issue a warrant under his hand to some fit and proper person to be named in such warrant to authorize him to examine any such sheep and if necessary to cause the same to be driven to the nearest pen where the same are ordinarily kept or to some other convenient place for examination and if such sheep shall appear to be infected as aforesaid they shall be detained until any information that may be filed under the provisions of this Act in respect of such sheep shall be heard and determined provided such information be exhibited within at least forty-eight hours after such sheep shall have been discovered to be infected as aforesaid and any proprietor or person in charge of such sheep who shall refuse to allow the same to be examined or shall refuse or neglect when so required to cause them to be driven to the nearest pen or to some other convenient place for examination shall forfeit and pay for every such offence any sum not less than five pounds nor more than twenty pounds.

8. And be it enacted That if any person shall have in his possession for the purpose of slaughtering for sale or shall slaughter or cause to be slaughtered for sale any sheep infected as aforesaid or shall expose the carcass or any part thereof in any public shop stall market or other place he shall for every such offence forfeit and pay any sum not less than five shillings nor more than twenty pounds and it shall be lawful for the convicting Justices to direct that the flesh of all such infected sheep so slaughtered as aforesaid shall be seized condemned and destroyed in such manner as they may think fit.

9. And be it enacted That all penalties or forfeitures incurred under the provisions of this Act may be sued for and recovered by any proprietor of sheep or the overseer or superintendent of any such proprietor or by any constable by information in the manner hereinafter mentioned and the matters contained in any such information may be heard and determined by any two or more Justices of the Peace in a summary way in the manner hereinafter mentioned.

10. And be it enacted That it shall be lawful for any proprietor of sheep or the overseer or superintendent of any such proprietor or any constable to exhibit an information in writing before any one Justice of the Peace informing of any offence against the provisions of this Act and on perusal of such information if the same be a valid one such Justice is hereby required to grant a summons in writing under his hand directing the attendance of the party informed against at a time and place to be therein mentioned to appear before any two or more Justices of the Peace to answer the charge contained in the said information and if such summons shall be served personally on the person so informed against or shall be left at his last known or usual place of abode a reasonable time (but in no case less than twenty-four hours) before the time therein mentioned for such person's appearance then upon the appearance of the party so summoned at such time and place as aforesaid or on proof to be then given *verid roce* on the oath of the person by whom the summons was so served as aforesaid and the production of the original summons it shall be lawful for any two or more Justices of the Peace then and there being thereupon or for any two or more Justices of the Peace at any future period to which the matter may be adjourned by any one Justice if two should not be present to proceed to hear and determine in a summary manner the matter informed of in the said information and on conviction of the person informed against it shall be lawful for either of the convicting Justices on non-payment of the penalty and such costs as such Justices may award to issue at any time not more than fourteen days from the day of

sheep suspected to be infected.

Persons slaughtering or exhibiting for sale infected sheep to forfeit not less than five shillings nor more than twenty pounds.

Convicting Justices to have power to order the destruction of infected meat.

Any proprietor superintendent overseer or constable to sue for penalties and any two Justices to adjudicate in a summary way.

The manner in which penalties are to be sued for and recovered.

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of conviction under his hand and seal a warrant of distress returnable on such day as he may think proper to insert therein such return not being more than fourteen days from the day of the date of such warrant authorizing any constable to proceed to levy on the goods of the person so convicted if any such can be found for the amount of such penalty and costs together with the sum of five shillings for such distress and the said goods forthwith to seize and carry to the nearest Police Office and the said goods so seized shall be sold at twelve of the clock on the third day after such seizure unless the full amount of penalty and costs be sooner paid and the surplus if any shall remain after the payment of such penalty and costs shall be paid to the person so convicted if demanded within three calendar months and if not so demanded shall be paid to the Colonial Treasurer of the said Colony for the general purposes of the Government thereof and if sufficient goods cannot be found before the return-day of the said warrant whereon to levy for the said penalty and costs it shall be lawful on the same being certified by writing on the back of such warrant to the convicting Justices or one of them under the hand of the person appointed to execute the same for either of the said convicting Justices forthwith by warrant under his hand and seal to commit the person so convicted to the nearest common gaol to the place where the conviction took place for any period not exceeding fourteen days where the penalty awarded shall not be more than five pounds and not exceeding three calendar months where the penalty awarded shall be of greater amount such term of imprisonment to be computed from the time of arrest only Provided always that no conviction shall take place under this Act unless within three calendar months after the commission of the offence complained of.

Power to subpoena
witnesses and mode
of compelling them
to attend and answer.

11. And be it enacted That it shall be lawful for any Justice issuing any summons under this Act or for any one of the Justices before whom the matter of any information may come on to be heard and determined to issue a subpoena under his hand for the attendance of any person at a time and place to be therein mentioned to appear and give evidence at the hearing of any such matter and to bring with him and produce at such hearing any necessary documents under his control that may be specified in such subpoena and every such subpoena shall be served by delivering a copy thereof personally to the person so subpoenaed and shewing the original at the time of such service which service shall be at a reasonable time and in no case less than twenty-four hours before the time specified therein for the attendance of such witness and if any person having been so subpoenaed shall not attend at the time and place mentioned in his subpoena without reasonable cause or having attended there shall refuse to be sworn or to affirm or shall refuse to answer any legal question that may be put to him without alleging for such refusal a sufficient excuse to be then allowed by the Justices hearing the case such person shall for every such offence forfeit and pay any sum not more than twenty pounds to be recovered in the manner and within the time hereinbefore mentioned for the recovery of penalties under this Act.

No penalty in any
case to exceed £100.

12. And be it enacted That no penalty imposed under any of the provisions of this Act shall in any case exceed the sum of one hundred pounds.

Appropriation of
fines and forfeitures.

13. And be it enacted That all fines and forfeitures imposed by this Act shall be paid one moiety to Her Majesty Her Heirs and Successors for the public uses of this Territory and in support of the Government thereof and shall be applied in such manner as may from time to time be directed by any Acts of the said Governor and Legislative Council and the other moiety to the use of the informer or party

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party prosecuting who shall also be entitled to his or her costs and charges over and above such fines and forfeitures to be ascertained and assessed by the Justices before whom the case is heard.

14. And be it enacted That no conviction made under this Act *Certiorari taken away.* shall be removed by writ of *certiorari* or otherwise into the Supreme Court of the said Colony.

15. And be it enacted That in the interpretation of this Act *Interpretation.* the words "public road or way used as a public way" within the boundaries of location shall be construed to mean any road or way used uninterruptedly by the public for not less than six years without any opposition from the proprietor of the land over which such road or way passes and without the boundaries of location any road or way over which sheep cattle horses or drays have been usually or commonly driven by the inhabitants of the district or the public generally and the word "sheep" shall be taken to include lambs as well as sheep and wherever any word shall be used importing the singular number or the masculine gender only the same shall be understood to include several matters as well as one matter several persons as well as one person and females as well as males unless there be something in the context repugnant to such understanding and also that all sheep shall be deemed to be infected within the meaning of this Act which may have been infected as aforesaid or mixed with sheep infected as aforesaid at any time within six weeks previously.
