

No. XXVI.

SCAB IN SHEEP.

An Act to provide for the destruction of Sheep infected with the Scab and to amend the Scab and Catarrh Act of 1853. [18th November, 1854.]

Preamble.

Sections 4 5 and 13 and so much of sections 6 9 and 12 of 17 Vic. No. 27 as relates to the disease called the scab repealed.

Sheep infected at the time of Act coming into operation to be destroyed within six weeks.

Sheep becoming infected after the coming of this Act into operation to be destroyed within fourteen days.

Notice of intention to destroy sheep to be left at adjacent runs.

Persons destroying sheep under the preceding sections to have compensation.

WHEREAS it is expedient to provide for the immediate destruction of all Sheep infected with the disease called the Scab and for other purposes as hereinafter mentioned Be it therefore enacted by His Excellency the Governor of New South Wales by and with the advice and consent of the Legislative Council thereof as follows:—

1. From and after the passing of this Act the fourth fifth and thirteenth sections of the Act of the Governor and Legislative Council of New South Wales passed in the seventeenth year of the reign of Her Majesty Queen Victoria and intituled "An Act for preventing the extension of the Diseases called the Scab and the Influenza or Catarrh in Sheep" and so much of the sixth seventh ninth and twelfth sections of the said Act as relate to sheep infected with the disease called the scab or to the said disease shall be and is hereby repealed.

2. All sheep infected with the disease called the scab at the time of the coming of this Act into operation shall be destroyed within six weeks from that time and the owner of such sheep shall forfeit and pay a penalty not exceeding the sum of two shillings and sixpence for each of such sheep that shall not be destroyed within such period of six weeks.

3. All sheep that may become infected with the disease called the scab after the coming of this Act into operation shall be destroyed within fourteen days after such sheep shall become so infected and the owner of such sheep shall forfeit and pay a penalty not exceeding the sum of two shillings and sixpence for each of such sheep that shall not be destroyed within such period of fourteen days Provided always that no person shall be entitled to the compensation hereinafter specified for sheep destroyed by virtue of this or the next preceding section of this Act unless three days at least before such sheep shall be destroyed a notice in writing shall have been left at each of the adjoining runs or stations at the residence of the owner superintendent or other person in charge thereof stating the hour and place at which it is intended to destroy such sheep as well as the number intended to be destroyed.

4. It shall be lawful for any person who shall have destroyed any sheep under either of the two last preceding sections of this Act to go at any time within three months thereafter before any two or more Justices of the Peace assembled at the nearest Court of Petty Sessions to the place where such sheep shall have been destroyed and to apply to such Justices to inquire into the destruction of such sheep and such Justices shall either then or at such future period as they may appoint not later than one week from the time of such application proceed to make such inquiry in open Court and to examine on oath all persons who may come before them to give evidence touching the giving of the notices hereinbefore mentioned and the infection and destruction of such sheep And if such Justices or any two of them shall be satisfied after hearing such evidence that such notices have been given and that any such infected sheep as aforesaid have been destroyed pursuant to either of the two last preceding sections of this

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Act they shall thereupon sign and deliver to the person making the said application a certificate in the form or to the effect set forth in the Schedule to this Act annexed marked A specifying the number of sheep so destroyed and on the presentation of such certificate to the Colonial Treasurer of the Colony of New South Wales at his office in the City of Sydney there shall be paid by the said Treasurer out of the funds to be placed in his hands as hereinafter mentioned to the owner of such sheep the sum of four shillings for every head of sheep so destroyed Provided that no payment shall be made for lambs under the age of six months.

5. If it shall appear to any Justice of the Peace either from information on oath made before him or any other Justice or upon the view of such Justice that there is reasonable cause to believe that any sheep infected with the disease called the seab are kept upon any run or other place whatsoever in the said Colony contrary to the provisions of this Act it shall be lawful for such Justice to issue a warrant in the form or to the effect set forth in the Schedule to this Act annexed marked B under his hand directed to some fit and proper person or persons to be named in such warrant and authorizing him or them to examine such sheep and if necessary to cause the same to be driven to the nearest pen where they are ordinarily kept or to some other convenient place for examination and any owner of such sheep who shall refuse to allow such person to enter on any lands of such owner or to allow such sheep to be examined or who 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 exceeding twenty pounds.

6. It shall be lawful for any two or more Justices of the Peace sitting in the Court of Petty Sessions nearest to the place at which such sheep shall have been examined as aforesaid on receiving from the person or persons so appointed to examine such sheep as aforesaid a certificate under his or their hands in the form or to the effect set forth in the Schedule to this Act annexed marked C indorsed on the said warrant stating that such sheep are infected as aforesaid to cause a copy of such certificate and warrant certified under their hands and with a memorandum indorsed thereon stating that unless such certificate be disputed within fourteen days the said sheep will be destroyed to be served on the owner of the sheep specified therein by leaving the same either at his residence or the residence of his superintendent or of the overseer in charge of the said sheep and if within fourteen days after the delivery of such notice no objection be made as is hereinafter provided to the correctness of such certificate it shall be lawful for the said Justices or any two of them or any other two or more Justices sitting in such Court of Petty Sessions as aforesaid to issue a warrant under their hands directed to the person or persons signing such certificate and authorizing them forthwith to destroy such sheep so infected as aforesaid which warrant shall be in the form or to the effect set forth in the Schedule to this Act annexed marked D and any person who shall resist or attempt to resist the execution of any such warrant shall forfeit and pay any sum not exceeding fifty pounds Provided always that if any owner on whom any such copy certificate and warrant as aforesaid shall have been served shall within fourteen days after such service serve on the Justices certifying such copy a notice in writing stating that he disputes the correctness of such certificate it shall be lawful for the said Justices to appoint a time to inquire into the correctness of such certificate such inquiry to be held in open Court at such Court of Petty Sessions as aforesaid and at such time or any other time to which the inquiry may be from time to time adjourned it shall be lawful for the said Justices or any other two or

Proceedings to be taken on sheep being certified on examination to be infected.

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more Justices of the Peace to examine on oath all witnesses that may be adduced and to compel the attendance of all necessary witnesses by summons as in other cases of summary jurisdiction and in the event of such Justices after making such inquiry being of opinion that such certificate is incorrect and that such sheep are not infected as alleged therein they shall sign and deliver to the owner of such sheep a certificate to that effect but in the event of their being of opinion that such certificate is correct they shall thereupon issue such warrant and proceed in such manner in all respects as they are hereinbefore authorized to do in cases where no such notice as aforesaid disputing the correctness of such certificate as aforesaid shall be served upon them within the time hereinbefore limited for that purpose.

Justices to give certificate of the cost of destroying sheep.

7. On the destruction of such infected sheep as aforesaid pursuant to such warrant as aforesaid it shall be lawful for the Justices granting the same or any two of them to ascertain and fix in open Court at such Court of Petty Sessions as aforesaid the remuneration to be paid to the person or persons so destroying sheep as aforesaid by virtue of such warrant and to give to some one of such persons (if more than one) a certificate in the form or to the effect set forth in the Schedule to this Act annexed marked E and on the presentation of such certificate to the said Colonial Treasurer at his said office the amount specified therein shall be paid by the said Treasurer to the bearer thereof out of the said funds to be placed in his hands as herein-after mentioned. Provided that before granting any such certificate the said Justices shall be satisfied by evidence on oath which they are hereby empowered to administer of the destruction of such sheep and of the cost incurred in their destruction.

No compensation to be given for sheep compulsorily destroyed.

8. The owner of any infected sheep destroyed by virtue of any such warrant as aforesaid besides being liable to the penalties herein-before imposed for not destroying infected sheep shall not be entitled to receive any compensation whatever for such sheep so destroyed by virtue of such warrant as aforesaid nor shall any such compensation be paid in respect of any sheep destroyed other than such as shall have been destroyed in the manner required by the second or third sections of this Act and the destruction of which shall be duly certified as hereinbefore provided by the fourth section of this Act.

False oath made perjury.

9. If any person shall wilfully make any false answer in any examination on oath under this Act he shall be deemed guilty of perjury and on conviction shall be imprisoned with or without hard labor for any period not exceeding seven years.

False report made a misdemeanor.

10. If any person appointed by any Justice as aforesaid to examine sheep as hereinbefore mentioned shall wilfully make any false report or deliver a false certificate to two or more Justices as aforesaid respecting such sheep he shall be deemed guilty of a misdemeanor and on conviction shall be imprisoned for any period not exceeding two years with or without hard labor.

Person wilfully communicating scab guilty of a misdemeanor.

11. If any person shall wilfully communicate or cause to be communicated to any sheep the disease called the scab he shall be deemed guilty of a misdemeanor and on conviction shall be imprisoned for any period not exceeding two years with or without hard labor.

Notice to be affixed to run of scab having broken out.

12. The owner of any sheep which shall become infected as aforesaid shall immediately on such infection becoming known affix at each point of the entrance of any public road which may intersect the land upon which such infected sheep are depastured or kept a notice signed by him and written in distinct legible characters not less than one inch in length and stating that the disease called the scab has broken out upon the said run and such notice or notices shall be dated on the day on which they shall be so affixed as aforesaid and shall be kept so affixed for the period of six months after the destruction

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tion of the sheep so infected as aforesaid and any owner of sheep which shall become infected as aforesaid who shall neglect or refuse to cause such notices to be so affixed and kept as aforesaid shall forfeit and pay a penalty not exceeding fifty pounds.

13. If any person shall depasture or cause or permit to be depastured any sheep upon any run on which any infected sheep shall have been destroyed under this Act within six months after such destruction he shall for every such offence forfeit a sum not exceeding one hundred pounds.

14. Whenever any sheep kept or depastured upon any land whatever shall be or become infected with the disease called the catarrh the owner of such sheep shall within six weeks after the commencement of this Act in case any sheep shall be then infected with such disease or if not then infected within ten days after the first appearance of such disease cause all such sheep and all other sheep kept or depastured in the same flock with such infected sheep to be marked and branded with pitch tar or paint with the mark or brand of the letter Z and with the initials of such owner's name such letters to be not less than three inches in length which marks or brands shall be affixed on the back above the shoulders of such sheep and every such owner shall so long as any of such sheep shall remain or be infected with the said disease renew and refresh such mark or brand from time to time so that the same shall be and remain legible and distinct And if the owner of any sheep which shall be or become infected with the said disease called catarrh shall neglect or refuse to mark or brand such sheep with the letter and initials aforesaid or to renew and refresh such marks or brands as aforesaid he shall forfeit and pay for every such offence any sum not exceeding fifty pounds.

15. For the purposes of this Act and of the hereinbefore recited Act all sheep so branded as aforesaid shall be deemed to be infected with the said disease called the catarrh and such brands shall be conclusive evidence against the owner of all sheep so branded that such sheep are so infected.

16. It shall be lawful for the Governor to appoint some fit and proper person or persons in such district or districts as he may think expedient to be Inspectors for the purpose of examining sheep and assisting generally in carrying the provisions of this Act into effect and such Inspector or Inspectors shall be paid out of the said fund hereafter mentioned such reasonable salary or remuneration as the said Governor may direct.

17. For the purpose of raising a fund to defray the cost of carrying this Act into effect and paying all the compensation money and all remunerations and salaries hereinbefore mentioned there shall in each year be levied and paid upon and in respect of all sheep depastured and kept in any part of the said Colony the assessment following that is to say for every one thousand sheep the sum of two pounds and so in proportion for any greater or smaller number which assessment shall be paid as follows that is to say on or before the thirtieth of April in each year at the office of the said Colonial Treasurer in Sydney or to such other officer or officers and at such other place or places as the Governor may from time to time appoint in that behalf.

18. Every owner of sheep depastured and kept in the said Colony shall make or cause to be made in the Intermediate or Unsettled Districts to the Commissioner of Crown Lands for the district wherin the said sheep shall or may be depastured and in the Settled Districts to the Clerk of Petty Sessions for the district in which the said sheep shall be depastured a return on the first day of January or within fourteen days thereafter in each year according to the form in the Schedule to this Act annexed marked F of all sheep kept and depastured

Penalty for depasturing sheep on infected runs.

Sheep infected with the catarrh to be branded.

Brands to be evidence of catarrh.

Inspectors to be appointed.

Yearly assessment to be levied on sheep.

Returns of sheep to Commissioner or Clerk of Petty Sessions.

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depastured by him as aforesaid and if any such person shall fail or neglect to make or cause to be made such returns at the time so appointed or shall omit to deposit the same with the said Commissioner or with the Clerk of Petty Sessions as the case may require he shall forfeit and pay for every such offence a penalty not exceeding twenty pounds.

Returns to be verified
by declaration.

19. The person making such return as aforesaid shall verify the same by a declaration in the form or to the effect prescribed in the said Schedule marked F (which declaration any Justice of the Peace is hereby empowered to administer) that the several matters and things contained in such return are true to the best of his knowledge and belief and if any person shall wilfully make therein any false statement he shall be deemed guilty of a misdemeanor and on conviction shall be imprisoned for any period not exceeding two years.

Annual return to be
made by Commis-
sioners and Clerks of
Petty Sessions.

20. The several Commissioners and the several Clerks of Petty Sessions shall within twenty-one days after the first day of January in each year make an assessment on the sheep depastured within their respective districts and shall on or before the first day of February then next ensuing make a return thereof to the said Colonial Treasurer in the form and containing the several particulars set forth in the Schedule to this Act annexed marked G according to which return the assessment hereinbefore mentioned shall upon notice as hereinafter provided be due and payable as aforesaid by the persons therein assessed except in so far as the same may be affected by any order made on appeal under the provisions hereinafter contained.

Notice to be given
of assessment.

21. The said several Commissioners and the said Clerks of Petty Sessions shall not less than one calendar month previous to the time hereinbefore appointed for the payment of the said assessment cause a notice in writing in the form contained in the Schedule to this Act annexed marked H to be served upon each person assessed or to be left at the residence of such person (if within the district) or with the superintendent or person having charge of his stock (if the owner thereof shall not reside within the district) apprising him of the amount of the assessment to which he is liable and requiring him to pay the said amount at the office of the said Colonial Treasurer or other place appointed as aforesaid on or before the thirtieth of April then next ensuing.

Appeal from assess-
ment.

22. Any person assessed as aforesaid who shall consider himself aggrieved by such assessment may appeal to the nearest Court of Petty Sessions Provided that within ten days after the service of the said notice of assessment the person assessed or some one on his behalf shall give to the said Commissioner or Clerk of Petty Sessions a notice in writing of his intention to make such appeal upon some day to be therein mentioned not later than fourteen days after the date of such last-mentioned notice and the Justices sitting in Petty Sessions shall hear and determine the matter of the said appeal in a summary way and shall make such order therein as to them shall seem meet according to the true intent and meaning of this Act and in case of the dismissal of the appeal or the affirmance of the said assessment wholly or in part or in case the party assessed or some person on his behalf shall not appear to prosecute the appeal the Court shall order and adjudge the person so assessed to pay within ten days the amount of such assessment or of such part thereof as they shall have determined to be payable into the office of the said Colonial Treasurer or other place appointed as aforesaid and also such costs and expenses as may be awarded to the said Commissioner or Clerk of Petty Sessions by the said Court and if such assessment costs and expenses be not paid within such time the said Court shall and may issue a warrant to levy the amount thereof by a distress and sale of a sufficient part of the

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the sheep in respect of which such assessment shall have been made as aforesaid and the surplus if any after payment of such assessment costs and expenses shall be paid to the owner of such sheep.

23. In case any person liable to pay any such assessment as aforesaid or in case any person so adjudged to be liable to payment of the said assessment or any part thereof upon appeal or notice of appeal as aforesaid shall refuse or neglect to pay the same upon the day appointed by such notice or within the time appointed in cases of appeal as aforesaid as the case may be lawful for the said Colonial Treasurer and he is hereby required forthwith after the expiration of one month from the day or time so appointed to issue a warrant under his hand to the Commissioner or Clerk of Petty Sessions in whose district any person so refusing or neglecting to pay as aforesaid shall reside directing the said Commissioner or Clerk of Petty Sessions and his assistants to levy the amount which such person is so liable to pay as aforesaid together with an additional sum equal to one-fifth part of that for which he is so liable by way of penalty for such refusal or neglect by a distress of a sufficient part of the sheep in respect of which the assessment shall have been made as aforesaid and such Commissioner or Clerk of Petty Sessions and his assistants to whom such warrant shall be so directed are hereby authorized under and by virtue thereof to distrain take and drive to the nearest or most convenient pound such and so many of the sheep of the party in the said warrant mentioned as shall be sufficient (when sold) to pay the amount of such assessment and penalty and the costs and expenses of making such distress and the payment of the maintenance of such sheep till sold and the said sheep (or a sufficient part thereof) to sell and dispose of at such pound according to the ordinary course of sales of sheep impounded for trespasses (unless previously thereto the said assessment penalty costs and expenses shall be paid) and the proceeds thereof shall be applied to the payment of the assessment penalty costs and expenses aforesaid and the surplus (if any) shall be paid to the owner or superintendent of the said sheep. Provided however that when such warrant shall be so issued as aforesaid in case the amount of the assessment and penalty therein mentioned shall be tendered to the person charged with the execution of such warrant then and in such case the said person shall and he is hereby authorized to accept and receive the said amount and to give a receipt for the money so received and to refrain from making the said distress.

24. It shall be lawful for any person to exhibit or lay before any Justice of the Peace an information complaining of any offence against the provisions of this Act to which a pecuniary penalty is attached and every such information shall be heard and determined by any two Justices in a summary way.

25. In the event of any penalty recoverable in a summary way not being paid within seven days after conviction the same may be levied by distress and sale of the offender's goods and if such goods shall be found insufficient it shall be lawful for the convicting Justices to order and adjudge that the person convicted as aforesaid shall be imprisoned for any period not exceeding six calendar months unless the penalty and costs be sooner paid.

26. Every proceeding under this Act before Justices of the Peace shall be had and taken in a summary way and no such proceeding shall be quashed for want of form or removed by writ of *certiorari* or otherwise into the Supreme Court of the said Colony.

27. It shall be lawful for the said Colonial Treasurer to pay any moneys legally demandable from him under this Act either as compensation for sheep destroyed or otherwise out of the public funds in his hands before any portion of the assessment hereby directed shall

be

Payment of assessment enforced by distress.

Penalties to be recovered in a summary way.

Penalties to be levied by distress and on non-payment party to be imprisoned not exceeding six months.

No *certiorari* Proceedings not to be quashed for want of form.

Colonial Treasurer to make advances out of General Revenue.

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be actually received by him provided that all such moneys advanced by him shall be repaid out of the proceeds of the said assessment and such assessment money shall be always kept by the said Colonial Treasurer in a separate and distinct account and shall be applied by him to the purposes of this Act and to no other purpose whatsoever.

Interpretation clause.

28. In the interpretation of this Act the word "owner" shall mean and include proprietor lessee overseer superintendent and person in possession or charge unless there shall be something in the context repugnant to such construction the word "sheep" shall include rams ewes wethers and lambs the words "public road" 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 or over which sheep cattle horses or drays have been usually and commonly driven by the inhabitants of the said Colony and all sheep shall be deemed infected with the disease called the scab within the meaning of this Act which shall have been mixed with sheep so infected at any time within three months previously and all sheep required by this Act to be destroyed shall be entirely consumed by fire or entirely buried at least three feet under ground.

Act to continue until
31 December 1856.

29. This Act shall continue in force until the thirty-first day of December one thousand eight hundred and fifty-six and no longer.

SCHEDULES REFERRED TO.

A.

Certificate of Destruction of Sheep.

WE the undersigned A. B. and C. D. two [or more as the case may be] of Her Majesty's Justices of the Peace for the Colony of New South Wales do hereby certify that it has been duly proved before us that [here state number] sheep above the age of six months the property of E. F. lately depasturing at [state name of run or station] were on the day of instant [or last] duly destroyed and we further certify that it was further proved to our satisfaction that such sheep were at the time of their destruction infected with the disease called the scab and that previous to their destruction the notices required by law were duly served.

Dated at in the Colony of New South Wales this day
of A.D. 185 A. B. J.P.
C. D. J.P.

B.

Warrant to examine Sheep.

THESE are to authorize you and your assistants at any time within twenty-one days from the date hereof to enter by force if necessary on the lands on which the sheep specified below are now running and to cause them to be driven to the most convenient part or parts of such lands for the purpose of examining them and to thereupon examine them in order to ascertain if they are diseased.

General description of sheep.	Where now running or being.	Name of person in ostensible possession.	Name of supposed owner.

Dated at in the Colony of New South Wales this day
of A.D. 185 A. B. J.P.

To Mr. and to his assistants.

C.

*Scab in Sheep.***C.***Certificate of Sheep being Diseased.*

(To be indorsed on preceding Warrant.)

I the undersigned A. B. [or we the undersigned A. B. and C. D. as the case may be] do hereby certify that pursuant to the within warrant to me [or us] directed I [or we] this day [or on the day of] examined the sheep within mentioned and I [or we] further certify that the said sheep are infected with the disease called the scab.

Given under my hand [or our hands] at in the Colony of New South Wales this day of A.D. 185 .

A. B.

D.*Warrant to destroy Sheep.*

WHEREAS it has been duly proved before us A. B. and C. D. Esquires two [or more as the case may be] of Her Majesty's Justices of the Peace for the Colony of New South Wales that the sheep specified below are infected with the disease called the scab Now these are to authorize you and your assistants at any time within twenty-one days from the date hereof to enter by force if necessary on the lands on which the said sheep are running and to destroy them and every part of them.

General description of sheep and number.	Where now running or being.	Name of person in ostensible possession.	Name of supposed owner.

Given under our hands and seals at in the Colony of New South Wales this day of A.D. 185 .

A. B. J.P.
C. D. J.P.

To Mr. and his assistants.

E.*Certificate of Cost of destroying Sheep.*

WE the undersigned A. B. and C. D. two [or more as the case may be] of Her Majesty's Justices of the Peace for the Colony of New South Wales do hereby certify that pursuant to a warrant directed by us to E. F. [or to E. F. and G. H. as the case may be] the said E. F. [or E. F. and G. H.] with his [or their] assistants did on the day of instant [or last] duly destroy [here insert number] sheep at in the said Colony and we further certify that we have fixed the remuneration to be paid for the destruction of such sheep at the sum of

Given under our hands at in the Colony of New South Wales this day of A.D. 185 .

A. B. J.P.
C. D. J.P.**F.***Return of Sheep.*

THE following is a Return of all Sheep now depastured by Mr. at in the Colony of New South Wales.

Name of station or run.	Number of sheep and lambs.	Name of superintendent or person in charge.

I A. B. do hereby solemnly declare that to the best of my knowledge and belief the foregoing is a true and faithful account of all sheep and lambs kept or depastured by me or under my charge on this station [or the several stations above mentioned as the case may be].

A. B. Proprietor or Superintendent

[as the case may be].

Declared before me at in the Colony of New South Wales this day of A.D. 185 .

C. D. J.P.,

Land Trespasses.

G.

General Return of Sheep.

YEARLY Return of Sheep and Lambs in the District of
Colony of New South Wales.

in the

Stations or runs.	Name of owner.	Name of superintendent.	Number of sheep and lambs.	Amount of assessment.

A. B. Commissioner or Clerk of Petty Sessions.

H.

Notice of Assessment.

THE amount at which you are assessed for the year from the first day of January to the thirty-first day of December 185 on the undermentioned sheep and lambs is as follows:— sheep and lambs at £2 per thousand £ s. d. which said sum of pounds shillings and pence you are hereby required to pay at the office of the Honorable the Colonial Treasurer in Sydney [or at *as the case may be*] before the thirtieth day of April next or if you consider yourself as having any just cause for appealing against the said assessment you will please to observe that notice of such appeal must be lodged with me within ten days from the date of the delivery of this notice in the manner directed by the Act of Council in that behalf.

As witness my hand at in the Colony of New South Wales this
day of A.D. 185

Commissioner of Crown Lands
[or Clerk of Petty Sessions].

To